KANSAS--THE LAW OF SLAVERY.

SPEECH

OF

HON. DANIEL CLARK,

OF NEW HAMPSHIRE.

Delivered in the Senate of the United States, March 15, 1858.

Mr. PRESIDENT: I am much obliged to the honorable Senator from Missouri for the assurance that this is not to be an effort of physical strength; that he is not disposed to crowd this debate into unseasonable hours. I have been here in my seat in the Senate since twelve o'clock, and I am not, perhaps, physically well prepared to go on at great length to-night; but if the debate is to continue, I am prepared with the materials around me to go so far as the Senate may be pleased to listen. I have refrained from mingling in this debate earlier than the present time. The question was put to me, "whether I intended to speak on the subject, when it was before the Senate in a different form?" My reply was, "that I did, at some time, if convenient, intend to speak; but that I intended to speak on the subject when it came before the Senate in a practical form; when there was something proposed to be done; when the bill to admit Kansas with the Lecompton Constitution should be here." It is here now; it is before us by a report from the Committee on Territories; and I propose to discuss the policy of the admission of Kansas as a State with the Lecompton Constitution.

Before I go further, I wish to ask the honorable Senator from Missouri, who seems to have the charge, in some sort, of this debate, whether he wishes to qualify the language of his report on the ninth page, where he says:

"Such are the characters, such are the objects, 'and the dangerous results of the opponents of 'the Lecompton Constitution?"

Mr. GREEN. The only qualification I make, is to be understood from its context. I am speaking of those in Kansas—of course, not of honorable Senators who oppose it here.

Mr. CLARK. That is the very point I want to note. The language goes that length. That is the fair interpretation.

Mr. GREEN. Take the context and see.

Mr. CLARK. I take it that every part of the report means something; and if the Senator had expressed what he intended by the previous paragraph in the report, he would not have added this clause. He meant something more. That is the fair rule of interpretation. The previous paragraph was confined to persons in Kansas. This goes the whole length, and applies to all opponents of the Lecompton Constitution. I wished to ask whether the language was not varied intentionally, because I desired to know whether I stood here charged as a culprit, or whether I stood here as a Senator on this floor, having equal rights with the Senator from Missouri.

Mr. President, it seems to me that we have so much wholesale denunciation in this report, and otherwise, in regard to those people who oppose the Lecompton Constitution, that it is perfectly legitimate and fair for me to make the inquiry how far the gentleman meant to go; and I desire to make the further inquiry of him, whether he means to apply this language to citizens of my State, or any portion of them in Kansas who are there now.

Mr. GREEN. I did not know that there was a citizen of the Senator's State in Kansas. If so, he has no business there, and ought to go out.

Mr. CLARK. The gentleman understands what I mean, and I cannot be turned aside. He must have known that I meant citizens from New Hampshire who have gone into Kansas, and who have a right to be there.

Mr. GREEN. Very well; if the Senator mea

those who were once citizens of New Hampshire, and are now citizens of Kansas, I say, that if Governor Walker and Secretary Stanton speak of them, I speak of them. I speak of those men they describe.

Mr. CLARK. Then I understand the gentleman to have based his whole assertion on what has been said by Governor Walker and Secretary Stanton, and he goes no further. I say to him, he is not warranted in making that wholesale assertion in regard to the opponents of the Lecompton Constitution, because Governor Walker does not say any such thing; he does not name a man, he does not say that one citizen in Kansas who went from my State has been guilty of any rebellion, or insurrection, or disorder, whatever. Now, I tell the Senator from Missouri, there are men, acquaintances, old neighbors of mine, in Kansas—men who have gone from my State—not from the purlieus of the great cities, but honorable, respectable men—tradesmen, mechanics, men who cultivate the soil. They are in Kansas now, and are opposing this Constitution, but they are peaceable and orderly men. If the Senator from Missouri did not know that these men were in rebellion, he ought not to have made this sweeping charge.

Sir, I am disposed to hold the honorable Senator, so far as I may, responsible for the truth of the statement he makes in his report. He presents the evidence here, and we may judge upon the evidence which he presents; but we cannot know whether that is the only evidence, or whether it is a partial statement; and hence I ask him whether he proposes to apply that statement to the citizens of my State. I put that question because I hold, as was said by the gentleman himself, the other day, that men are not to be condemned by classes; men are to be condemned, or upheld, or praised, as individuals. I agree that there is great danger of wrong, when you undertake to condemn men by classes. You may go into any portion of the country, and you will find good men of one class, and bad men of the same class. You may go into almost every sect of religion, and find good men of that sect, and bad men of that sect. Why may you not find good men in Kansas, I ask the honorable Senator, opposed to the Lecompton Constitution? There may have been men in that Territory who have been guilty of some indiscretion—I do not say there have not been, for I do not know, and I do not admit that there have—but what I mean to say is, that the Senator should not, in this report, make these charges, because they go out to the country, they go on to the files of the Senate, they stand here as part of the country's record, when they are not supported by the facts.

It is no apology for the gentleman's statement in regard to these men, it brings no consolation to them, to have him get up here and state that, if Governor Walker meant to condemn them, he means to condemn them; that if Mr. Stanton spoke of them, he means to speak of them. Who are the men that he speaks of? All the opponents of the Lecompton Constitution put in a mass, put together, and condemned, in Kansas, as he says now, and as I had some reason to believe.

Now, Mr. President, before I go further, I wish to ask the Senator from Virginia who last addressed the Senate, if he will permit me to do so, a question which may facilitate the debate. I wish to ask him, on what he grounds the law of Slavery, whether upon the common law, or the law of nations? so that I may be prepared to discuss definitely and distinctly, point after point, his positions. I do not wish to ramble in the debate. I was not quite sure—if I had been, I should not ask the honorable Senator—on what law he did ground it; though I understood him to ground it upon the common law and upon the law of the civilized world—that is, the law of nations; but I did not understand whether he went any further. If he will inform me that I am right in my inference, that he did ground it on the common law or on the law of nations, and did not go any further, that will answer entirely my purpose.

Mr. MASON. I understand the honorable Senator to ask me on what I ground the law of Slavery. I would answer the honorable gentleman by saying, that I am not aware that there is any other law that pertains to Slavery than those laws which pertain to every other species of property.

Mr. CLARK. Then I am obliged, in order to get any species of information, to ask on what law he grounds the right to other property—whether the common law or the law of nations—because I get no information, as I understand the Senator's answer now. It is altogether too indefinite for my purpose. The Senator is under no obligation to answer. Perhaps he has not made up his mind.

Mr. MASON. I certainly did not intend to treat the Senator with the slightest discourtesy.

Mr. CLARK. Not the least.

Mr. MASON. I will answer, with great pleasure, any question in my power. I assumed, in the course of my speech to-day, that the African slave stood to the general law of the country—meaning the common law—exactly in the relation of any other property; that it required no law to create it, it required no law to regulate it, and no law to protect it, no more than it required a law to create slavery in an ox, or to regulate or protect it. Now, if the honorable Senator asks me on what ground I place the law of Slavery, I would remit him at once to the common law, which recognises such a thing as property. The honorable Senator from Maine referred to the first interview that took place between the Deity and the first man, and he said that was Blackstone's theory. I would not interfere with it, for that was what I understood to be the higher law. We know that cannot be administered on earth, except by a theologist.

Mr. CLARK. I will state my purpose in asking the question of the Senator. I understood him distinctly to state that Slavery was grounded on the common law, or existed by the common law. I am prepared with authority after authority, from 1694 down to the present time, in England; I am prepared with authority after author-

ity in our State courts; I am prepared with the anthority of the United States courts, that Slavery does not exist by the common law. I am prepared to prove that it is not established here by the law of nations, and I wanted to be prepared for any other point on which the gentleman rested. That was the reason of my question.

Mr. MASON. Will the gentleman allow me to put a question to him?

Mr. CLARK. Certainly I will do so.

Mr. MASON. Suppose a man should come here from Liverpool, and bring with him a valuable horse worth $10,000, and that horse were to be taken from him by the hand of violence, would not our courts interpose to recover his horse for him? and would it not be because it was recognised as the property of the man who brought it here? I want to know upon what law on the continent of America you recognise the property of the Englishman who brought the horse over; to what do you trace it? My position was, that the common law recognised property in whatever was property coming from another nation; and when these negroes were brought from Africa, the condition of property attached to them in Africa was recognised by the common law. Precisely as the law of nations recognised property in the horse, the common law here gave property in the horse; the common law so recognised it, be it a horse or an ox.

Mr. CLARK. I understood the gentleman to start with a question, but he wound up with assertion and argument. I do not know whether he wishes me to answer the question or not. If he does, I will say to him that the common law recognises property in a horse, but I will also state to him distinctly, and prove it before I get through, that the common law does not recognise property in man, and I think I shall make the distinction broad and clear.

Mr. MASON. If you prove that, you will refute my proposition.

Mr. CLARK. Yes; I think I shall. I shall endeavor to do it. I have not a doubt where I shall come, if I succeed.

Mr. MASON. I do not fear it.

Mr. CLARK. I know the gentleman does not fear anything. I do not wish that he should fear anything I should say. It is not my purpose to say anything that would put him, or anybody else, in fear. We are here for the purpose of discussion; and if it be the pleasure of the Senate and of the honorable Senator, I will pursue the line of argument which I had proposed to myself.

I wish to take my departure on this voyage from the Constitution, and I wish to be clearly understood; because I shall differ materially from many gentlemen that have spoken before. I may advance some new ideas—ideas which have not been referred to; but I wish to say, I commit nobody around me—not one man in this Senate—to anything that I may have to say. If it is heterodox, I say it on my own responsibility. If it is orthodox, I say it on authority which I have about me. I do not know that anybody will agree with me, except the Senator from Connecticut, [Mr. FOSTER,] in one part, because he has already foreshadowed his principles in that particular, and on that we agree.

But some things are taken for granted or seem to have been passed in silence, which I am going to controvert. One of them was the position taken by the Senator from Virginia, [Mr. MASON,] and it was also taken by the Senator from Virginia, [Mr. HUNTER,] in his speech yesterday, that we have no right, in discussing this matter, to look into the Lecompton Constitution any further than to see that it is republican. I deny it entirely. I claim the right to look that Constitution in the face, to look at it from the top of its head to the sole of its foot, to examine it thoroughly, to pass my judgment upon it deliberately as a Senator of the United States, and to say whether, upon an examination of that Constitution—not alone, but with other things, (or alone, if I please)—I will admit Kansas under that Constitution, or not. I start in the proof of what I have to say, with the Constitution of the United States. Here is the article, and here is the point of my departure:

"SEC. 3, ART. 4. New States may be admit-
' ted by the Congress into this Union."

New States may be admitted, Mr. President. That implies, if Congress pleases. They may be admitted by Congress, and they may not, where Congress pleases not to admit them. That is a matter left *to* the sound discretion of Congress, to judge of it when a State proposes to come in, not only with reference to the new States, but with reference to the old States; to examine the Constitution which she brings; to examine the institutions under which she comes; and if they find anything in the Constitution of the new State which is derogatory or injurious to the old States, which is derogatory to the institutions under which we live, which will mar the prosperity of the new State even, then we have the right to reject her if we choose. If this were not so, our discretion would be limited; but in the Constitution there are only two or three limits, and then the whole matter is left in the sound discretion of Congress. In this very section we find, first:

" New States may be admitted by the Congress
' into this Union."

What next? "but no new State shall be form-
' ed or erected within the jurisdiction of any
' other State."

There is one limitation. Congress may admit new States, but shall not make a new State out of another State. That fixes that point. It then goes on: " nor any State be formed by the junc-
' tion of two or more States, or parts of States,
' without the consent of the Legislatures of the
' States concerned, as well as of the Congress."

Here are two limitations. Congress may admit new States, or may not; but they shall not erect a new State within the jurisdiction of another State; nor form a new State out of two or more States, without the consent of the Legislatures of those States as well as of Congress. Is there anything further? When you get a little further on, to section four, you find this provision: "Congress shall guaranty?" No, sir,

Congress does not guaranty. Congress may admit new States, but Congress does not guaranty:

"The United States shall guaranty to every 'State in this Union a republican form of gov-'ernment."

Not alone to the new State which is admitted, but the United States, shall guaranty a republican form of Constitution to all the States.

Now, Mr. President, here are three limitations put by the Constitution upon the admission of new States. There are no others; and, as I contend, the whole matter rests in the discretion of Congress, whether to admit new States or not. Upon this point, that the power rests in the Congress of the United States, and in their sound discretion, I have an authority. I do not regard it as very binding authority. I do not acknowledge its validity to the whole extent to which it goes, but I will take it for what it is worth, and honorable Senators may do so too. It is the decision of the Supreme Court in the Dred Scott case. I will read from it. Speaking of territory, it says:

"It is acquired to become a new State, and 'not to be held as a colony, and governed by 'Congress with absolute authority; and as the 'propriety of admitting a new State is commit-'ted to the sound discretion of Congress"—

Mark the language. The propriety of admitting a new State is committed to the sound discretion of Congress.

Here it is laid down, in this very Dred Scott decision, that Congress have the power, that Congress have the authority committed to their sound discretion, with three limitations placed upon it by the Constitution, and no others: first, that they shall not erect a new State within an old State; second, that they shall not form a new State out of two or more States, without the consent of the Legislatures of the States, as well as of Congress; third, that the United States shall guaranty a republican form of government. Now, I desire to speak for a few moments upon this clause of the Constitution, that Congress shall guaranty—no, sir, I use the phrase incorrectly—that the United States shall guaranty to every State in this Union a republican form of government.

Mr. BENJAMIN. I will state to the Senator that the form of government and the Constitution are two things. The Constitution of the United States guaranties that the form of government shall be republican. It does not speak of the Constitution itself.

Mr. CLARK. I know that it does not say anything in regard to the States having a republican Constitution. I use the two terms as synonymous, but the phraseology is peculiar:

"The United States shall guaranty to every 'State in this Union a republican form of gov-'ernment."

I contend that a State may come into the Union without a Constitution, [Mr. BENJAMIN. Certainly.] and have a republican form of government. Look at the history of that provision of the Constitution. It was a provision adopted by the Convention which framed this Constitution, as well for the old as for the new States. It was for the security of those old States, as well as for the admission of the new, because it was seen by those wise men who framed this Constitution that there might be intestine divisions—the Constitution of a State might be overthrown, its form of government overthrown, and a form not republican might be established. In order to prevent the mischief which would flow to the several States from such a state of things, a provision was inserted that the United States should guaranty a republican form of government to the States. Now if, in Virginia, it could happen that the Constitution or form of government, which is republican, should be overthrown in that old State, the United States would be pledged to interfere, and guaranty to them a republican form of government; because it is not according to the theory of our Government, nor the genius of our institutions, to have a monarchical government, or any other form of government than a republican government, in any of the States. Mr. President, I draw another inference, that such is the conclusion, on a fair interpretation of this article, from the position in which it is placed. Section four is in these words:

"The United States shall guaranty to every 'State in the Union a republican form of gov-'ernment, and shall protect each of them from 'invasion; and on application of the Legisla-'ture, or of the Executive, (when the Legisla-'ture cannot be convened,) against domestic 'violence."

The whole section was framed for the purpose of suppressing violence or irregularities leading to the overthrow of a republican form of government in any State of this Union. Such, it is evident, was its design, from the history of the provision. I have here the Madison Papers. They are the history, as you, sir, and honorable Senators, well know, of the debates which took place in the Convention which adopted the Constitution. I find here the provision guarantying a republican form of government to all the States by the United States, in the original draft which was presented by Mr. Randolph, of Virginia, to the Convention. It may be useful, Mr. President, to look at the history of these matters. You can get the meaning the force, and the application of these various provisions of the Constitution better by studying their history and their alteration from time to time, as they passed through the Convention, than in almost any other way. You see the source from which they came, you see the object for which they were offered, you see the various modifications which took place as they went along; and then it enables you to judge of the precise bearing they may have. I have before me the second volume of the Madison Papers, and I find in this volume that Mr. Edmund Randolph, of Virginia, opened the main business of the Convention. He came forward with a plan of government, which had in it especially these two provisions of the Constitution: That the Congress may admit new States; and that the United States shall guaranty to every State of this Union a republican form of government. They were in his original plan. They were, I think, in the plan of Mr.

Charles Pinckney, presented afterwards; but I wish only to call your attention, Mr. President, to the original form, that you may see what was the draft, what was the object, and what was the intention of those who brought it into the Convention. It stood then, not as it stands now; but it was the eleventh provision of Mr. Randolph's plan:

"*Resolved*, That a republican form of govern-
' ernment, and the territory of each State, ex-
' cept in the instance of a voluntary junction of
' government and territory, ought to be granted
' by the United States to each State."

Here was the object. There was then a controversy going on in regard to the boundaries of States. Virginia made large claims to territory; New York made large claims to territory; other States made large claims to territory. The object of this resolution was not entirely to procure a guaranty of its form of government to each State, but it was to procure the guaranty of its territory as well, to bring in the United States to defend and maintain all the boundaries which Virginia had a lawful right to. But before debate on this proposition was through, it was suggested in Convention that Congress ought not to be committed to a quarrel about territory, and hence that provision was struck out. It then went on further to say:

"That Congress shall guaranty a republican
' form of government."

And then it was changed to read in this way:

"*Resolved*, That a republican Constitution, and
' its existing laws, ought to be guarantied to
' each State by the United States."

That was the form at once assumed in debate. It was said by some member of the Convention, that he would not like to guaranty the laws of Rhode Island, which held a charter under the Crown. Some further objection was made, and they struck it out. It was for the protection, safety, and tranquillity of the old States, that it was put in here, and not with a direct reference to the new States. I think Senators go beyond the warranty of the Constitution, they go too far, when they say that this provision was adopted with reference to the new States alone, if they do say so. I am not certain that anybody has said that distinctly, but everybody who has spoken seems to construe it as peculiarly applicable to the new States, and that Congress have no further discretion than to see that every form of government is republican. I contend that we have a right to go much further, and I propose to go much further in this debate. I propose to look at the Lecompton Constitution from its beginning to its end. I propose to discuss its provisions. I propose to say why I object to them, and if I can persuade Senators that my objections are well founded, to do so. I have, I think, a clear right to do so.

It will appear further, Mr. President, that this provision, that Congress may admit new States, was not intended to cramp the discretion of Congress. Congress may admit new States into the Union. Keep the language, Mr. President, if you please, in your mind. That was a part of Mr. Randolph's plan, not precisely as it stands here, but in these words:

"*Resolved*, That provision ought to be made
' for the admission of States lawfully arising
' within the limits of the United States."

It was not contemplated by anybody, when this provision was brought into the Convention, nor when it was adopted, as far as I have been able to trace, that we were to take territory beyond the then territory of the United States, and make new States. It was not proposed; and hence this proposition said, in the original draft, that "provision ought to be made for the admis-
' sion of States lawfully arising within the limits
' of the United States"—not out of it—"whether
' from voluntary junction of Government and ter-
' ritory, or otherwise, with the consent of a num-
' ber of voices in the National Legislature less
' than the whole"

Now, I wish to call the attention of honorable Senators to the history of this provision. It shows distinctly what was its meaning, and what was intended by it. Congress may admit new States. The original proposition was, that they should admit them out of the then territory of the United States. Then it went further: there was a proposition before the Convention, that Congress should admit new States out of the territory of the United States upon an equality with the old States. Does anybody pretend, will anybody say, that Congress has the right to admit a new State on a different footing from the old States? I do not say that; yet I will prove to you, from the history of these debates, and from the various modifications that were made to this provision of the Constitution, that that provision for putting new States on an equality with the old States was struck out upon deliberation, and upon motion, for the very purpose of bringing in new States, if they chose, not upon an equality with the old States. I will not go through all the various forms this provision assumed as it travelled through the Convention. I will call your attention directly to the point I have in mind. At one time in the progress of this debate, the proposition in regard to new States assumed this form, that Congress may admit new States into the Union:

"If the admission be consented to, the new
' States shall be admitted on the same terms with
' the original States."

Here was a proposition distinctly made to tie down the discretion of Congress to the footing of the old States; that they should not have the power to admit a new State, unless it came in on the footing of the old States. I am not contending, and do not let me be so understood, that it would be wise; I will not even contend here that Congress has the power to admit a new State, except on an equal footing with the old States. What I am after, is to show that there was a provision in the original draft of the Constitution, and upon deliberation, upon motion, upon argument *pro* and *con*, the Convention struck it out, for the very purpose of bringing the Western States into the Government on a different footing. Let me read from these debates. They are very instructive:

"Article seventeenth being then taken up"—which is this in regard to the new States—"Mr. 'Gouverneur Morris moved to strike out the two 'last sentences, to wit: 'if the admission be con-'sented to, the new States shall be admitted on 'the same terms with the original States.'"

Gouverneur Morris, of Pennsylvania, moved to strike out that provision. He did not like it; he did not want new States to come in on an equal footing. I will show you, because the debate shows it, that he also moved to strike out the further provision:

"But the Legislature may make conditions 'with the new States concerning the public debt 'which shall then be subsisting."

This is the reason he gave for his motion:

"He did not wish to bind down the Legisla-'ture to admit Western States on the terms here 'stated."

That is, on equal terms. He did not want to bind Congress to do it. They should have a discretion.

"Mr. Madison opposed the motion; insisting 'that the Western States neither would nor 'ought to submit to a union which degraded 'them from an equal rank with the other States."

I think there is force in the objection. The old States were fearful that the new States formed in the Western Territories would grow into a large representation; and it might be, they would be able to out-vote the old States by and by, as they are very likely to do, if they have not already done so. He was fearful of that.

"Mr. Madison opposed the motion; insisting 'that the Western States neither would nor 'ought to submit to a union which degraded 'them from an equal rank with the other States."

"Colonel Mason. If it were possible, by just 'means, to prevent emigration to the Western 'country, it might be good policy."

It was not designed then to fill up the Western country with emigrant people from the old States, and make States so fast. There was no idea of having them control the thirteen old States. If you could prevent emigration, said Colonel Mason, it would be good policy:

"But go the people will, as they find it for 'their interest; and the best policy is to treat 'them with that equality which will make them 'friends, not enemies.

"Mr. Gouverneur Morris did not mean to dis-'courage the growth of the Western country. 'He knew that to be impossible. He did not 'wish, however, to throw the power into their 'hands.

"Mr. Sherman was against the motion, and 'for fixing an equality of privileges by the Con-'stitution."

He was in favor of striking out, but he was for fixing an equality in the Constitution:

"Mr. Langdon was in favor of the motion."

The President of the Senate of the First Congress, from New Hampshire, Mr. Langdon, was in favor of the motion:

"He did not know but circumstances might 'arise, which would render it inconvenient to 'admit new States on terms of equality.

"Mr. Williamson was for leaving the Legisla-'ture free. The existing small States enjoy an 'equality now, and for that reason are admitted 'to it in the Senate. This reason is not appli-'cable to new Western States."

On Gouverneur Morris's motion, the question being fairly put: Shall that provision confining them to an equality with the old States be stricken out? New Hampshire, Massachusetts, Connecticut, New Jersey, Pennsylvania, Delaware, North Carolina, South Carolina, and Georgia, all voted "ay" to strike it out. We do not want new States upon an equality. We want them under control, so that we can fix them as we please. If their representation is going to overshadow ours, we want to limit it. But when they came to adopt a Constitution afterwards, they fixed the equality of representation, which, it seems to me, controlled the whole matter on that point. On the motion to strike out, there were nine in favor of it, and two against it, Maryland and Virginia.

It seems to me conclusively shown, by this history of the provision, that the whole matter, whether we should admit new States on an equality with the old States, was left to the sound discretion of Congress. Congress was to say whether it would admit them. Congress was the Legislature for the thirteen old States. It could examine the situation of those old States; it knew their wants; it knew their requirements, and could say whether new States should come in better than any other body. The whole matter was left in the discretion of Congress. I do not say that it is to be an arbitrary discretion; I do not say that it is to be just as this or that man supposes; but I do say it is to be an exercise of sound discretion—such a discretion as honorable Senators and honorable members of the House of Representatives might be supposed to exercise, governed by all the considerations that enter into so momentous a question; governed by those various considerations, as to the position, as to the climate, as to the trade, as to the occupation, as to the number of people, and as to the character of the people of the new States, with reference to the old States.

Why, sir, in the debate that has taken place on this subject, honorable Senators seemed to have supposed that a new State had nothing to do but form a Constitution just as it pleased, and provided it was republican in its form—nay, provided it had a republican form of government—it was entitled to come into the Union. Suppose a State comes here, asking admission, with Brigham Young's notion of polygamy. It has a government republican in form, with a Senate and House of Representatives elected by the people; a Government republican in form—that is it—not republican in sentiment, but in form; you cannot look any farther, according to this doctrine; you cannot see what baggage it brings with it; and you might have a State with the institution of polygamy, located by the side of an older State, to whom it was very offensive.

Suppose a State comes here with a Constitution providing that no murder shall ever be punished in the new State; what then? It is hard-

ly a supposable case; but supposing that it had a Senate and House of Representatives and Council, and all the forms of a republican government, and yet a provision that no murder should ever be punished in that State; you cannot look into it—that is the argument—because there is no power under the Constitution, except to see that it has a republican form of government. Suppose it tolerated robbery, and should say no robbery should ever be punished; then, if it is republican in form, with a Senate, House of Representatives, all the paraphernalia, all the machinery, all the form, you cannot look into it! What have you to do with robbery in a State? You are only to look into the Constitution, and guaranty the State a republican form of government. That is all you can do. Suppose the Constitution of a State contains a provision that no larceny should ever be punished there, and that the government is republican in form, with its Senate and its House; why, sir, if it come with all the iniquity ever dreamed of unpunished—yea, with a provision that it should not be punished in that State—still, if it was republican in its form of government, you have to take it, if that is the doctrine.

I do not believe Congress is tied up in the Constitution in any such way. I believe we have power, if Brigham Young comes here with a Constitution tolerating polygamy, to say to Brigham Young, you cannot come into this family with your wives. I believe, if any State should come here tolerating murder, robbery, or larceny, we have a right to say that we shall not admit a State allowing those crimes, into this Union. Then I go a step further, and say—

Mr. BIGGS. Does the Senator from New Hampshire assimilate murder, robbery, larceny, and polygamy, with Slavery?

Mr. CLARK. I have not done that. I am taking the case of a State coming here, allowing the most enormous crimes. I was just going to say—I should have said it if the gentleman had not interrupted me, and I will say it now—that if a State comes here with Slavery, which takes the life of a man, which robs him of his labor and liberty, and all that belongs to a man, we have a right to look into it. I assimilate it to nothing. I do not know that that institution is like anything else in the world. I hope to God it is not.

Mr. BIGGS. It is an institution that formed a part of the social system of every State in the United States at the formation of the Constitution.

Mr. CLARK. He goes too far in his statement; but still I condemn it because it is disreputable to the Government. The fact that it then generally existed does not make it right.

Mr. BIGGS. Then you are against the Constitution.

Mr. CLARK. No, sir; I am not against the Constitution. I say there are some things in the Constitution which I wish were not there. I am not disposed to extend them, and I will not vote to extend them. That is the position I assume. I had nothing to do with the formation of the Constitution. Its responsibilities, its needs, its requirements, rest somewhere else. I am to deal with the extension of *that* institution. Its original adoption is one thing; its extension, another. I deal with its extension. The question is not whether it went into the thirteen old States. The question is, whether it shall go into Kansas. To that I am opposed. I do not hesitate to say it. I say to the honorable Senator just as the Senator from Ohio [Mr. WADE] said this forenoon, I will not vote for the admission of Kansas under that Constitution, because it does contain a provision for Slavery. I do not mean by that assertion to exclude every other objection to it. I have a good many. I stand there "square and fair," committing nobody but myself, and to that I mean to be committed. I wish it to be understood, that I will not vote to extend Slavery into Kansas.

Mr. BIGGS. Or any other State that may apply for admission.

Mr. CLARK. I have not said that. I do not know what cases may arise. It is the part of wisdom, of a prudent man, to judge of cases when they arise. When another State comes here, I will judge of her Constitution and of her position in the attitude in which she stands here. I judge of Kansas now; with Kansas alone am I dealing. I think the issue is sufficient, and I wish to show the honorable Senator from Louisiana, [Mr. BENJAMIN,] that, though other Senators may have sought to avoid and conceal the issue, I have not done so. I will not seek to conceal the issue. I say to that honorable Senator, I say to anybody that hears me, that the people of my State are deadly opposed to that institution, and I am here their representative. Nay, sir, I will go further: I will say that the course of the United States Government upon the question of Slavery put my colleague and myself here, and we shall maintain the issue which has been committed to our hands, faithfully and fearlessly. We have no threats, no taunts, no ill-feelings to anybody. I make no war upon any State where Slavery exists. I do not go into the matter with Delaware or Virginia; they have it; let them take care of it. They have it in Missouri and Georgia; I make no war upon it there; I say nothing about it there: but when asked to extend that institution, I say I am not going to do it. Now, Mr. President, I shall give my reasons why I shall not so vote.

I am opposed to the admission of Kansas as a slave State, because the Constitution of that State proposes to carry Slavery where the common law did not carry it. This brings me to reply to the authorities cited by the gentleman from Virginia, [Mr. MASON;] and also to the argument of the gentleman from Louisiana, [Mr. BENJAMIN;] for I think I shall be able to show, though the argument of the gentleman from Louisiana was very able, though his tongue was very eloquent, and though he cited numerous authorities, that the weight of authority, the current of decision, and the force of those decisions, are entirely to the point in this country, and in England conclusive, that Slavery did not exist by the common law. I am about to begin with the earliest case that I can find. I am going to comment upon each case as it proceeds.

It may be tedious; but it is the only way in which I shall be able to relieve myself from the position in which I am, because I can here refer to authority, and read from books.

The first case that I find bearing upon this point is to be found in Levinz's Reports. It was as early as the 29th Charles II. It was the case of Butts against Penny—the same case which was cited here, I suppose, by the gentleman from Louisiana. It was a case of

"Trover for one hundred negroes, and upon '*non culp.* it was found, by special verdict, that 'the negroes were infidels, and the subjects of an 'infidel prince, and are usually bought and sold 'in *America* as merchandise by the custom of 'merchants, and that the plaintiff bought these, 'and was in possession of them until the de-'fendent took them. And *Thompson* argued, 'there could be no property in the person of a 'man sufficient to maintain trover, and cited *Co.* '*Lit.*, 116."

Here you see the doctrine clearly so long ago as the reign of Charles II., (1678,) "that there was no property in man."

"That no property could be in villeins but by 'compact or conquest. But the court held, that 'negroes being usually bought and sold among 'merchants as merchandise, and also being infi-'dels, there might be a property in them suffi-'cient to maintain trover, and gave judgment for 'the plaintiff, *nisi causâ*, this term; and at the 'end of the term, upon the prayer of the Attor-'ney General to be heard as to this matter, Day 'was given until next term."

The case never proceeded to judgment. No judgment was rendered upon it, and it is no authority, one way or the other. There was a special verdict found, and then time given for showing cause; and there the matter ended, as appears by the report here, and in other reports.

That is the first case which I find. The next, Mr. President, is to be found in Lord Raymond's Reports. It is the case of Chamberlain *vs.* Harvey, 8 and 9 William III, (the year 1702)—seventy years before the Sommersett case, which the Senator from Louisiana says was a piece of judicial legislation. It was not new in the history of England at that time:

"Trespass for taking of a negro *pretii*, £100. 'The jury find a special verdict; that the father 'of the plaintiff was possessed of this negro, and 'of such a manor in *Barbados*, and that there is 'a law in that country which makes the negro 'part of the real estate; that the father died 'seized, whereby the manor descended to the 'plaintiff as son and heir, and that he endowed 'his mother of this negro and of a third part of 'the manor; that the mother married Watkins, 'who brought the negro into *England*, where he 'was baptized without the knowledge of the 'mother; that Watkins and his wife are dead, 'and that the negro continued several years in '*England;* that the defendant seized him, &c. 'And after argument at the bar several times by 'Sir *Bartholomew Shower* of the one side, and 'Mr. *Dee* of the other, this term, it was adjudged 'that this action will not lie. Trespass will lie 'for taking of an apprentice, or *hæredem apparen-'tum*. An abbott might maintain trespass for 'his monk; and any man may maintain trespass 'for another, if he declares with a *per quod ser-'vitium amisit;* but it will not lie in this case. 'And *per Holt*, Chief Justice, trover will not lie 'for a negro."

I find here also a reference to a case which I have been unable to find, between Gelly and Cleve, in which it was adjudged that trover will lie for a negro boy. I mention it because I desire to state authorities fairly. I desire that all shall be presented, so that we shall be able to judge how the common law of England was. In a case immediately after this one between Gelly and Cleve, it was adjudged that trover would not lie for a negro slave.

The next case which I have found is in 2 Lord Raymond's Reports. It is the case of Smith *vs.* Gould. It is also to be found in 2 Salkeld, page 666. It has been quoted on the other side, but, if I understand it, its authority is the other way clearly. The caption is:

"Trover does not lie for a negro. Where sev-'eral damages are given for several injuries, the 'judgment may be arrested as to some of them 'only."

That does not refer to the point.

"In an action of trover for a negro, and sev-'eral goods, the defendant let judgment go by 'default, and the writ of inquiry of damages 'was executed before the Lord Chief Justice '*Holt*, at *Guildhall*, in *London*. Upon which the 'jury gave several damages, as to the goods, and 'the negro; and a motion as to the negro was 'made in arrest of judgment, that trover could 'not lie for him, because one could not have such 'a property in another as to maintain this ac-'tion."

That is the ground. Let me read it again:

"That trover could not lie for him, because one 'could not have such a property in another as 'to maintain this action."

The report continues:

"Mr. Salkeld, for the plaintiff, argued that a 'negro was a chattel by the law of the Planta-'tions, and therefore trover would lie for him."

He did not, let me observe, contend that trover would lie by the law of England; but that trover would lie by the law of the Plantations.

"That, by the Levitical law, the master had 'power to kill his slave; and in Exodus, chapter 'xx, verse 21, it is said he is his master's 'money; that, if a lord confines his villein, this 'court cannot set him at liberty, (Fitz. Vil-'lein, 5."

And he relied on the case of Butts and Penny, (2 Lev., 201; 3 Keb., 785,) the one I have just cited, in which no judgment was given, as in point, where it was held, trover would lie for negroes. "*Sed non allocatur.* For *per totam 'curiam* this action does not lie for a negro, no 'more than for any other man."

That is distinct and emphatic language; and this was in 5 Anne—I think in 1707, sixty-four

years before the Sommersett case. The whole court—nobody dissented—held distinctly that trover would not lie for a negro no more than for any other man. The honorable Senator from Louisiana said that the Sommersett case was a piece of judicial legislation by Lord Mansfield. Here is the same thing, sixty-nine years before that case, that trover will not lie for a negro more than for any other man. It goes on—and I wish to call the honorable Senator's attention to this reasoning of the court:

"This action does not lie for a negro no more ' than for any other man; for the common law ' takes no notice of negroes being different from ' other men."

That is the point in this book, that by the common law negroes are like other men. Then the court go on to say:

"By the common law, no man can have a prop- ' erty in another"—remember, this is in 1707— "but in special cases, as in a villein"—villeinage then existed—"but even in him not to kill him; ' so in captives took in war, but the taker cannot ' kill them, but may sell them to ransom them."

But the court go on to say:

"There is no such thing as a slave by the law ' of England."

This was delivered in 1707, sixty-four years, as I said before, before that piece of judicial legislation by Lord Mansfield:

"And if a man's servant is took from him, the ' master cannot maintain an action for taking ' him, unless it is laid *per quod servitium amisit*."

Mr. BENJAMIN. If the gentleman will allow me, I will observe that the question discussed in that decision is a mere technical question as to the forms of action; it is not a question as to the master's right of property.

Mr. CLARK. Then I do not understand it, when the court say that an action of trover does not lie for a negro more than any other man. Can he make trover lie for a white man, unless he were a villein at that time?

Mr. BENJAMIN. It would lie for a villein no more than it would for a negro. That case is in regard to the form of action. The chief justice goes on to say, if you want to sue for a slave, put it on the ground that you have lost his labor. That is the form of the action you can bring.

Mr. CLARK. I differ entirely with the Senator from Louisiana, because then you allow the slave to stand upon the ground of a freeman. You can bring an action for his labor.

Mr. FOSTER. Yes; as a father may sue for the service of his son.

Mr. CLARK. Yes, sir, that is the ground on which you stand. But the court say, in this very case, that there is no property in man; that the law in England does not recognise property in a slave. That is the very point: whether, by the common law, Slavery existed in England? and in this very case, it was decided that the common law does not recognise Slavery. It is a vain attempt to shove it on technicalities. It is fair and square, open and patent.

I now come to the Sommersett case. I cite that, not to be tedious; not because I suppose it is not well understood; but to show that Lord Mansfield considered in his argument the very cases which the Senator from Louisiana has so eloquently commented upon. The Senator from Louisiana talks about the opinion of Sir Philip Yorke, and the decision of Lord Hardwick afterwards. I state here, and will show in the Sommersett case, that in the reasoning of the court, the court were aware of it, and overruled it: and said they could not allow any force to it. I will read the opinion of Lord Mansfield. He says:

"We pay all due attention to the opinion of ' Sir *Philip Yorke* and Lord Chief Justice *Tal-* ' *bot*"——

Mr. FESSENDEN. What book are you reading from?

Mr. CLARK. Loft's Reports, 12 George III. I am now reading from the Sommersett case, in 1772, which is to be found on the 19th page:

"We pay all due attention to the opinion of ' Sir *Philip Yorke* and Lord Chief Justice *Tal-* ' *bot*, whereby they pledged themselves to the ' British planters, for all the legal consequences ' of slaves coming over to this kingdom, or being ' baptized, recognised by Lord *Hardwick*, sitting ' as Chancellor, on the 19th of October, 1749, ' that trover would lie: that a notion had pre- ' vailed, if a negro came over, or became a ' Christian, he was emancipated, but no ground ' in law; that he and Lord *Talbot*, when Attor- ' ney and Solicitor General, were of opinion that ' no such claim for freedom was valid; that ' though the statute of tenures had abolished ' villeins regardant to a manor, yet he did not ' conceive but that a man might still become a ' villein in gross, by confessing himself such in ' open court."

Then said Lord Mansfield:

"We are so well agreed that we think there is ' no occasion of having it argued (as I intimated ' an intention at first) before all the judges, as is ' usual, for obvious reasons. In a return to a ' *habeas corpus*, the only question before us is, ' whether the cause on the return is sufficient? ' If it is, the negro must be remanded; if it is ' not, he must be discharged. Accordingly, the ' return states that the slave departed and refused ' to serve; whereupon he was kept, to be sold ' abroad. So high an act of dominion must be ' recognised by the law of the country where it ' is used. The power of a master over his slave ' has been extremely different, in different coun- ' tries. The state of slavery is of such a nature, ' that it is incapable of being introduced on any ' reasons, moral or political, but only positive ' law, which preserves its force long after the ' reasons, occasion, and time itself, is erased from ' memory. It is so odious, that nothing can be ' suffered to support it but positive law. What- ' ever inconveniences, therefore, may follow from ' a decision, I cannot say this case is allowed or ' approved by the law of England: and therefore ' the black must be discharged."

Mr. BENJAMIN. Will the Senator permit me to ask if Lord Mansfield does not say, in that very decision, that there were then many thousand pounds worth of slaves in England?

Mr. CLARK. I will read it all, and see. This is Lord Mansfield:

"On the part of *Sommersett*, the case which we 'gave notice shall be decided this day, the court 'now proceeds to give its opinion. I shall recite 'the return to the writ of *habeas corpus*, as the 'ground of our determination, omitting only 'words of form. The captain of the ship on 'board of which the negro was taken, makes his 'return to the writ in terms signifying that there 'have been, and still are, slaves to a great num-'ber in *Africa;* and that the trade in them is 'authorized by the laws and opinions of *Virginia* 'and *Jamaica;* that they are goods and chattels, 'and, as such, saleable and sold. That *James* '*Sommersett* is a negro of *Africa*, and, long before 'the return of the King's writ, was brought to 'be sold, and was sold to *Charles Stewart, Esq.*, 'then in *Jamaica*, and has not been manumitted 'since; that *Mr. Stewart*, having occasion to 'transact business, came over hither, with an 'intention to return, and brought *Sommersett* to 'attend and abide with him, and to carry him 'back as soon as the business should be trans-'acted. That such intention has been, and still 'continues; and that the negro did remain, till 'the time of his departure, in the service of his 'master, *Mr. Stewart*, and quitted it without his 'consent; and thereupon, before the return of the 'King's writ, the said *Charles Stewart* did commit 'the slave on board the *Ann and Mary*, to save cus-'tody, to be kept till he should set sail, and then 'to be taken with him to *Jamaica*, and there sold 'as a slave. And this is the cause why he, Cap-'tain *Knowles*, who was then, and now is, com-'mander of the above vessel, then and now lying 'in the river *Thames*, did the said negro, com-'mitted to his custody, detain, and on which he 'now renders him to the orders of the court."

I have now read up to the point where I commenced in the first instance, and I find nothing of that to which the gentleman alludes.

Mr. BENJAMIN. I will state, then, that that is an imperfect report.

Mr. CLARK. I do not think it is.

Mr. BENJAMIN. The whole of the decision will be found in 20 Howell's State Trials.

Mr. CLARK. I take it as it is here; and if I found anything in regard to what the Senator alludes to, I would read it. I did not select it because it did not contain such a provision; but on asking for the State Trials at the Library, I was told that it was not in, but that I should find the decision in this volume; and I took it.

The next case which I cite is one in our own country. I have one further case to cite from England, but I propose to follow the order of time. I have cited a case in 1702. I have cited a case in 1707. There is no case intervening, that I am aware of, between that and the Sommersett case, in 1772. I do not find any case after that, and I do not think the question was mooted after 1772 during that century. I do not say there were no other cases. I do not say that I have examined so thoroughly as I desire to. I have taken the cases as I found them, by the aids of such lights as were afforded me within the last few days. I come down now to our own country; and I find a case in the Kentucky Reports, in a slave State. It is the case of Rankin *vs.* Lydia, a slave. I do not propose to read the whole case, but I propose to read from the remarks of the court.

Mr. PUGH. If the Senator will allow me, I wish to read an extract from the Sommersett case, on a point which was in issue between him and the Senator from Louisiana. It is in the argument:

"About fourteen thousand slaves are at pres-'ent here in England."

Mr. CLARK. It may have been so. I do not know how the historical fact was. Negroes may have been there; but the case was not to be decided on the fact of negroes being in the country, but on the fact whether Slavery existed there by law. It was not a decision of how many negroes there were in the country. It may have been that a great many were brought in, but that certainly was not the question before the court.

Mr. BENJAMIN. If the gentleman will permit me a moment, as I do not mean to make another speech, I will call his attention, not to break down the force of his argument, but to fortify what I have said, which was this: that slaves were recognised as merchandise, were daily sold in the public mart in London, when this decision was made; and the evidence that this decision was judicial legislation consisted in the fact that large masses were daily sold in London, without question from the authorities, under the opinion of the Solicitor General and the Attorney General, until Lord Mansfield, in Sommersett's case, declared that involuntary servitude could not exist, and destroyed property in about fifteen thousand slaves.

Mr. CLARK. They may have been sold by the merchants. I do not undertake to say how that was. I know that lottery tickets are sold daily, weekly, and monthly, in my State, contrary to law. Although I never bought a ticket in my life, and never shall, yet I have sent me almost every week a magnificent scheme, in which I am told to go to such a place in my own State to get the tickets.

Mr. BENJAMIN. Do they sell them at public auction?

Mr. CLARK. No, sir; but they sell them openly. You might as well justify Peter Funk auctions, because they take place in the city of New York. It is the law we are discussing; not the practices of the English people, unless those practices have grown into custom, and make law. When Lord Mansfield, or any other English judge, shall decide that so many slaves in England make the common law, then it will have force and effect; but not till then. You may tell me that American vessels go to Africa, and are there loaded with slaves, and come into our country; and yet the law here is, that the slave trade is piracy. I know a man may go outside of the law, but that does not alter the law.

I proceed to read from this opinion in 2 Marshall, p. 470, in the case of Rankin *vs.* Lydia:

"In deciding this question, we disclaim the 'influence of the general principles of liberty"—

the court was careful to do that—"which we 'all admire, and conceive it ought to be decided 'by the law as it is, and not as it ought to be. 'Slavery is sanctioned by the laws of this State; 'and the right to hold them under our municipal 'regulations is unquestionable. But we view 'this as a right existing by positive law, of a 'municipal character, without foundation in the 'law of nature, or the unwritten and common 'law."

That is the decision of the State of Kentucky, that Slavery did not stand upon the common law. Here, Mr. President, let me make a distinction, for I am not quite sure, by the argument of the honorable Senator from Louisiana, whether he meant to say, and confined his argument to, statute law, instead of positive law. I am not contending that Slavery exists everywhere by statute law. I say it only exists by positive or municipal law, or laws which may become positive and municipal by the force of custom, and grown up to be recognised as the positive law of the land, but not by the common law. The court, in the decision of this case of Rankin *vs.* Lydia, says:

"But we view this as a right existing by posi-'tive law, of a municipal character, without 'foundation in the law of nature, or the unwrit-'ten and common law."

The next case to which I come, Mr. President, is one I think from the gentleman's own State. It is to be found in 2 Martin's Reports, 1824. I cite from the case of Lunsford *vs.* Coaquillon, page 402:

"The relation of owner and slave is, in the 'States of this Union in which it has legal ex-'istence, a creature of municipal law."

Mr. BENJAMIN. There was a law in force in our State at the same time on the subject.

Mr. CLARK. The next case I shall cite is that of Forbes *vs.* Cochrane, to be found in 2 Barnewall and Cresswell's Reports, in which the judge says:

"I am of opinion that, according to the prin-'ciples of the *English* law, the right to hold slaves, 'even in a country where such rights are recog-'nised by law, must be considered as founded, 'not upon the law of nature, but upon the par-'ticular law of that country."

Mr. FESSENDEN. What case is that?

Mr. CLARK. The case of Forbes *vs.* Cochrane, page 362, in 1824.

I ought, before I go further, to comment a little upon the case of the slave Grace, but it does not go to show at all, as I understand it, that Slavery existed by the common law. It was a case where a slave was brought from one of the West India islands to England, lived there a while, and went back, and then a suit was brought, not for the purpose of determining her freedom, but that was incidentally brought to the notice of the court, and the court held that, however the law might be in England, that though she might be free there, if she brought an action for freedom, yet, going back to the West Indies, where Slavery existed, and having for four years submitted herself voluntarily to that state of servitude, she was not entitled to freedom.

I come now to the case of Prigg *vs.* The Commonwealth of Pennsylvania, 1842. The same case was cited by the honorable Senator from Louisiana, and I was a little surprised, I must confess, when that honorable Senator took this case against the Commonwealth of Pennsylvania, which was, in fact, as he says, a case between the State of Maryland and the State of Pennsylvania, and read from it a portion of Judge McLean's opinion, to sustain the view that he was taking, to wit: that the common law recognised Slavery, or that it had not been abolished in this country.

Mr. BENJAMIN. I beg the gentleman's pardon. I quoted that for the purpose of establishing, in contradiction to the Senator from Maine, [Mr. FESSENDEN,] that slave property was guarantied by the Constitution. I did not quote that upon the subject of the common law.

Mr. CLARK. I may be mistaken about the precise point with which and for which the honorable Senator quoted. I dare say I am. I would not for a moment misrepresent him; but I will still say, that while he had been so earnestly contending and citing authorities to show that the common law did recognise Slavery—that it in fact brought it into this country—I was a little surprised, when he had this case of Prigg *vs.* The Commonwealth of Pennsylvania in his hand, no matter for what purpose, nor to what precise point he cited it, and this very case follows the Sommersett case, which he says was judicial legislation, in which the United States court decides that Slavery only exists by municipal or positive law, that the honorable Senator did not read that portion to the Senate. It was not his purpose to do so. I find no fault because he did not. I only say it seemed to me a little singular that he should not have cited the authority of the highest court of the Union, when he launched out afterwards, I think, or before, no matter which, in so eloquent and so high a eulogium upon that court. In another particular I was a little surprised. When he commented upon the case of the slave Grace, decided by Lord Stowell, he read from some book—I do not understand from what—a letter from Mr. Justice Story, approving of the decision in that case, and saying he would have decided it as Lord Stowell had decided it. Now, I want to say to the Senator that this case of Prigg *vs.* The Commonwealth of Pennsylvania was decided when Mr. Justice Story was upon the bench; ay, sir, Mr. Justice Story himself delivered the opinion of the court.

Mr. BENJAMIN. I said so.

Mr. CLARK. Did the honorable Senator say so the other day?

Mr. BENJAMIN. I did in my speech.

Mr. CLARK. On that point?

Mr. BENJAMIN. Yes.

Mr. CLARK. I understood him not to allude to that point at all. He may have said that Justice Story delivered the opinion of the court; but he did not tell the Senate that Mr. Justice Story decided that Slavery existed only by positive municipal law. I think the gentleman will not say he said that.

Mr. BENJAMIN. I did not say that, because I never did understand him so to decide.

Mr. CLARK. Then we will read the decision. I will read first from the caption:

"By the general law of nations, no nation is 'bound to recognise the state of Slavery as to 'foreign slaves within its territorial dominions, 'when it is opposed to its own policy and insti-'tutions, in favor of the subjects of other na-'tions where Slavery is recognised. If it does it, 'it is as a matter of comity, and not as a matter 'of international right. The state of Slavery is 'deemed to be a mere municipal regulation; 'founded upon"—

That is it—"founded upon." It is a very curious expression—"founded upon, and limited to the range of territorial laws."

That is the law of the country where it exists. It is founded upon and limited to it. The gentleman would have the Senate infer that Slavery came into the country by the force of the common law which extended itself all over the English colonies, and that that is a part of the birthright which we had. Mr. Justice Story says it is founded upon municipal regulation, and confined and limited to territorial law. This is the caption of the case. Let us see what the reasoning is, and what authority is cited to support it. Mr. Justice Story delivered the opinion of the court:

"By the general law of nations, no nation is 'bound to recognise the state of Slavery."

I shall cite this presently, in further answer to the Senator from Virginia, who maintained, as I understood, that it existed by the laws of all Christian nations, or almost all; and therefore was to be recognised in this country. Mr. Justice Story says:

"By the general law of nations, no nation is 'bound to recognise the state of Slavery, as to 'foreign slaves within its territorial dominions, 'when it is in opposition to its own policy and 'institutions, in favor of the subjects of other 'nations where Slavery is recognised. If it does, 'it is as a matter of comity, and not as a matter 'of international right. The state of Slavery is 'deemed to be a mere municipal regulation, 'founded upon and limited to the range of the 'territorial laws. This was fully recognised in 'Sommersett's case, (Loft's Rep., 1; S. C. 11 'State Trials by Harg., 340; S. C. 20 Howell's 'State Trials, 79,) which was decided before the 'American Revolution"

This case (Sommersett's) settled the question as to the common law, four years before the Declaration of Independence, so that, if that was the true law of England, if that was the state of the common law, we did not take Slavery by the common law, but we took it by the force of the territorial law. Judge Story, in this decision, continues:

"It is manifest, from this consideration, that 'if the Constitution had not contained this 'clause"—that is, the clause in regard to fugi-'tives—"every non-slaveholding State in the 'Union would have been at liberty to have de-'clared free all runaway slaves coming within 'its limits."

Now, Mr. President, I wish to ask honorable Senators how this could have been under the Constitution, if the common law brought Slavery here, if Slavery existed by the common law, which was part of our birthright? If Slavery came here by force of the common law, it was carried into every State of the Union where the common law went. What was the necessity of that provision, if by force of the common law the master could get his slave? It was in Pennsylvania as well as in Maryland; and when a slave went from under their statute law in Maryland, and got into Pennsylvania, he was still under the common law; he could not be a freeman, because the common law would hold him. But, understanding distinctly that the common law did not recognise Slavery, the framers of the Constitution put in that provision, so that slaves should not be set free who escaped into a free State where the common law did exist, but which did not recognise Slavery. They inserted that provision in the Constitution, in order that fugitive slaves might be returned into the States from which they came.

This is the decision of the highest court of the nation. I do not know that it has ever been overruled, unless it was overruled by the Dred Scott opinion, and that does not overrule it in terms. Here is a case decided in 1842, fifteen years after the case of the slave Grace. It was not before the decision of that case, which the honorable Senator from Louisiana says Justice Story approved It was fifteen years after that matter had been brought to his knowledge, and his attention had been turned to it. What is remarkable here is, that the court did not all concur in the *reasoning* of Mr. Justice Story; they did not all concur in *all the points* he made, and the other judges went on *seriatim*, one after another, to give opinions and reasons, and yet not one of the judges dissented from Mr. Justice Story upon this point. They all concurred in it; and Mr. Chief Justice Taney that now is, was then upon the bench when this case was decided, and he did not dissent from that part of it. I think there is not to be found, in Mr. Justice Taney's opinion, a solitary *dictum* on which he dissented upon that part of Mr. Justice Story's opinion.

I have here another case. I am following the order of time. I have got up to the highest court of the nation. I am not beginning with the lower, and going up to the higher by different grades of authority, but I am following the order of time. I have given the case of Prigg *vs.* The Commonwealth of Pennsylvania, in 1842. What is remarkable is, that you find these cases as well in the slave States as everywhere else. I hold in my hand 9th Georgia Reports, in which I find a very remarkable case—that of Neal *vs.* Farmer—where the judge goes into the matter with great research and great learning. I should differ from him in some of his conclusions, for reasons which will be obvious when I come to read the opinion. This is a case in the State of Georgia, which is decided on the ground that Slavery did not exist by the common law, but existed by the various statutes passed in England for the Colo-

nies, and by the statutes passed by the Colonies themselves. The case was very maturely considered. I presume the honorable Senator from Louisiana has seen it, though I did not understand him to take any notice of it.

Mr. BENJAMIN. I will merely suggest to the gentleman that I can furnish him with a hundred cases to the same effect in the slave States.

Mr. CLARK. I dare say the gentleman is much more learned than I am upon this point. I dare say he might beat me "two to one" in bringing forward cases. I am not surprised, because it was not his object to show that Slavery did not exist by the common law, but to show that it did, that he left behind the hundred cases he said he could furnish, and brought the others.

The second note or point in the caption of this case in 9th Georgia Reports, 555, is this:

"African Slavery held never to have existed ' in the Island of Great Britain by the common ' law, by statute, or by the law of nations."

The point made in this case was this: a negro had been killed, and the question material to decide was, whether that killing was felony or not. Counsel endeavored to show that Slavery did exist by the common law, and that by the common law it was felony to kill a man; and therefore it was felony to kill the negro; but the court held the contrary, that Slavery never did exist by the common law, nor by any statute law in England, and passed a decision on that point. They afterwards go on to give the origin of Slavery; and to that part of the case I shall address myself by and by. Let me say that here is a discussion in this decision of that other interesting subject which the Senator so complacently alluded to the other day, that of *villeins regardant* and *villeins in gross*. The whole doctrine was stated by the Senator, and he told the rest of the Senators where they could find it. Here it is, not in England, but in our own midst, in the State of Georgia, examined in connection with Negro Slavery in England, and a decision solemnly rendered that Slavery does not exist by the common law. The court say, further:

"We look in vain, certainly, to the common ' law for traces of Saxon Slavery as an institu- ' tion under its protection."

The opinion was delivered by Judge Nisbet:

"By the court—Nisbet, Judge, delivering the ' opinion.

"But I apprehend that a judge, sitting to de- ' termine what was the *status* of the slave under ' the common law, can derive from its considera- ' tion no light to guide him, because I consider ' that the common law recognises but one spe- ' cies of Slavery as having existed in England ' under its sanction, at any time, and that is *vil- ' leinage*."

No other Slavery existed by the common law in England, says the court, at any time. The court say, further on in the opinion:

"The unconditional Slavery of the African ' race, as it exists in Georgia, never did exist in ' Great Britain. I do not mean, of course, in the ' *British Empire*, but in the *Island of Great Brit- ' ain*. It has never had a *status* under the com- ' mon law."

Then the court, further on, say:

"I now consider the decisions of the English ' courts"—the court reviewed all the English decisions on that point—"upon the subject of ' Slavery, and I think it will be seen that Slave- ' ry has never been recognised to exist there, ' under the common law. On the contrary, it is ' well settled, that the moment a slave, whether ' African, Indian, Jew, or Gentile, sets his foot ' upon British soil, he is a freeman, and entitled ' to the protection of the laws as such."

The court say in this case:

"The question is, did this fact recognise Sla- ' very in England, as an institution under the ' protection of the common law?"

That is, the fact that Slavery was recognised by the law of nations. England had recognised Slavery as a part of the law of nations, and the court go on to consider the question whether, having recognised Slavery as a part of the law of nations, it made a part of her common law; and they say:

"The question is, did this fact recognise Sla- ' very in England as an institution under the ' protection of the common law? Clearly, it did ' not. The laws of nations are recognised by ' the municipal laws, and will be enforced upon ' the citizens and subjects of the States parties ' thereto, in all cases when a question arises ' which is the object of their jurisdiction. They ' are recognised by the common law. (4 Black. ' Com., 67, &c.) The law of nations tolerated, ' but did not enjoin, the slave trade. The obli- ' gation of England under it was, to respect the ' rights of those States engaged in it, within ' their own territories, and upon the high seas. ' Vessels engaged in the traffic were not liable ' to seizure and confiscation. *Her* subjects were ' also equally entitled to protection under the ' international law. I apprehend, however, that ' it is historically true, that neither by statute ' nor by usage has Great Britain ever availed ' herself of the license of the law of nations, to ' introduce Slavery into the Island of Great ' Britain from Africa. In point of fact, pure ' Slavery never did exist in England, neither by ' capture in war, by municipal authority, or by ' the law of nations. Had slaves been intro- ' duced into that part of her empire by municipal ' authority, or had they been introduced without ' municipal, that is, without statutory authority, ' under a trade sanctioned by the laws of nations, ' the *status* of Slavery would have been there ' just what it is here. Property in the slave, the ' right to control his person, *his limits*, as *Lord ' Coke* expresses it, would have existed and fallen ' under the protection of the common law. To ' any correct view of this subject, it is indispen- ' sable to distinguish between Great Britain and ' her colonies. As to the latter, we know that ' Slavery *there* did in fact exist, and was sanc- ' tioned by usage under the law of nations, and ' by acts of Parliament; as to the former, we ' know that it did not exist *there*, and received ' no such sanction. How could, then, the com- ' mon law attach upon the institution of Slavery ' in the Island of Great Britain? The law of ' nations would have justified Slavery in Eng-

'land, had it been there. But they did not 'create it there. Whether by the comity of nations the English courts are not bound to deliver a slave, coming into Great Britain from a 'State where Slavery exists by law, to his right-'ful owner, to be taken back, as was the demand 'in the Sommersett case, is a different question. 'Lord Mansfield held that they are not.

"Nations being equal, the laws of one State 'have no operation in any other, *proprio vigore*."

Then the question arose before the court, whether the recognition of Slavery, and the existence of S avery in the colonies, did not establish it in England; whether, from the fact that Parliament passed certain laws establishing Slavery in the colonies, they did not carry it into England? As to that question, the court decide that it certainly did not; and they say:

"The recognition of Slavery in the colonies 'did not establish it in England. This is the 'answer to the conclusion drawn by counsel. 'The statutes of Great Britain do not apply to 'the colonies, unless expressly extended to them; 'and the acts which relate to the colonies alone, 'have a local operation only. Such has been 'the ruling of the courts at Westminster Hall. 'Expressly so held, in reference to these very 'statutes, in *Forbes* vs. *Cochrane*, 2 *Barn. and Cres.* 'by *Best, J., p.* 448; 1 *Black. Com.*, 107, 108; 1 'Chitt. Com. Law, 638."

Then the court come back to review all the cases in England on this point:

"I return now [says the judge] to a review of 'the decisions in England upon the subject of 'Slavery. The authenticated cases in England 'before the *Sommersett case* are five in number, 'to wit: *Butts* vs. *Penny, in the* 28 *Charles II.*"

The same case which the honorable Senator cited. There is also here the case of *Smith* vs. *Gould*, in reference to which the court say:

"In *Smith* vs. *Gould*, which was also trover for 'a negro and other things, the plaintiff had a 'verdict with several damages, and £30 for the 'negro. On motion in arrest, the court held 'that trover could not lie for a negro."

I did not find that case in Salkeld's Reports.

Mr. BENJAMIN. I will state to the Senator that there are two cases in Salkeld, on the same page, on this subject, and he will find that that is one of them.

Mr. CLARK. I have found a case in Salkeld's Reports, some things in which I want to read to the Senator. This is one of the older cases, 1707—Smith *vs.* Brown and Cooper:

"The plaintiff declared in an *indebitatus as-'sumpsit* for 20*l.* for a negro sold by the plaintiff 'to the defendant, namely: in *Parochia beatæ 'Mariæ de Arcubus in Warda de Cheape*, and ver-'dict for the plaintiff; and on motion in arrest 'of judgment, Holt, C. J., held: that as soon as 'a negro comes into *England*, he becomes free; 'one may be a villein in England, but not a 'slave. *Et per* Powell, J. In a villein the 'owner has a property, but it is an inheritance; 'in a word, he has a property, but it is a chattel 'real; the law took no notice of a negro."

Then, if the law took no notice of a negro, it did not make him a slave; that is clear.

Mr. BENJAMIN. Read it all.

Mr. CLARK. I will read it all. Chief Justice Holt says:

"You should have averred in the declaration, 'that the sale was in *Virginia*, and, by the laws 'of that country, negroes are saleable; for the 'the laws of *England* do not extend to *Virginia;* 'being a conquered country, their law is what 'the King pleases; and we cannot take notice 'of it but as set forth; therefore he directed the 'plaintiff should amend, and the declaration 'should be made, that the defendant was in-'debted to the plaintiff for a negro sold here at '*London*, but that the said negro, at the time of 'sale, was in *Virginia*, and that negroes by the 'laws and statutes of Virginia are saleable as 'chattels."

In England there could have been no sale of a negro, for he would have been a freeman; but the slave being in Virginia, he could be sold, though the sale was made in London.

"Then the Attorney General coming in, said 'they were inheritances, and transferable by 'deed, and not without; and nothing was 'done."

I do not think that is authority for the other side. Here the same case comes up in another shape, in Smith *vs.* Gould, in trover. In the case which I have just quoted they tried *assumpsit*, and could not succeed in that, because there was not such a thing as a slave in England, by the common law. They then tried trover, and the court held that trover lies not for a negro; but in a suit of trespass, *quare captivum suum cepit*, if in technical form, the court intimated that the plaintiff might have succeeded.

I want to call the attention of honorable Senators to one expression in this case of Smith *vs.* Gould, which covers the whole ground. I have never seen anything so succinctly stated. It resembles some of those old maxims of the common law:

"*Sed curia contra*, men may be the owners, and, 'therefore, cannot be the subject of property."

Man may own, but he cannot be owned. That is the doctrine of the case.

Now, Mr. President, I have done with that part of my argument which relates to the common law. I think I have shown that Slavery did not exist by the common law. If it did not exist by the common law, it could not be brought here by the common law from England, and did not exist here. If it did not exist here by the common law, then, if it existed at all, it existed by the municipal law—the positive law of the State. Wherever there was a positive law on the subject, regarding the slave as property, there he was property. Wherever there was no municipal law, no law upon the subject making him a slave, there he was a freeman. Hence the pertinency of that provision of the Constitution, which was a matter of compromise, in regard to the fugitive slave. If in Virginia and Maryland a slave is held by the force of positive law, custom, or statute, and he escape and goes into the State of Pennsylvania, or any other State where he is not held as a slave, where Slavery does not exist, without a provision that he should be re-

turned under the Constitution, he would be free; and, therefore, the framers of the Constitution inserted in it that provision.

Our courts have repeatedly held, and have recently held in New York, Massachusetts, everywhere, that if a slave is carried voluntarily by his master into a free State, he cannot take him back again. If Slavery existed by the common law, the master would have a right over him, and he could take him back just as he could his horse or his cow. He could lay his hands upon him, and say: "You are my property under the common law; come along with me." You would not want a fugitive slave law to get him, if Slavery existed by the common law. You never have had a fugitive slave law for a horse or a sheep. It was only because that by the common law the slave, when he gets from under the statute law, is free, that this provision of the Constitution was adopted.

This case in Georgia, and some other cases, go to the point to show that Slavery was not established by the law of nations. The law of nations, as I said, does not go so far as to make positive law for any State. For instance, England may recognise Slavery and the slave trade as part of the law of nations, Spain may recognise them, France may recognise them, the whole world may recognise them by the law of nations; and yet, if New Hampshire does not recognise them, the law of nations cannot force them upon her. The law of nations regulates the rules and the proceedings between nations; but it does not go within a nation, and make anything a part of its institutions, and force on that nation what does not otherwise exist by its own law. So, if Slavery and the slave trade exist by the law of nations, that law of nations does not have the force of carrying Slavery into any Territory where it does not exist, but only regulates the law as between those nations. Each nation is at libery to regulate its own law. The United States undoubtedly recognised the slave trade as part of the law of nations up to a certain time. I think it recognises it now as part of the law of some nations, but she has prohibited it herself, and the law of nations does not have such effect as to compel her to have it here. No such force is given to it; and notwithstanding all the nations in Christendom, except the United States, may have recognised Slavery, yet if the United States had not recognised it, it does not bring it here; and if some of those United States have recognised it, it does not carry it into States which have not recognised it. It has no force to bring it into free territory, because recognised in Virginia, or because Virginia recognised the law of nations. It does not have any such force. Each nation stands by itself upon its own laws, regulating its own domestic concerns, and then there are certain laws, rules, and regulations, called the law of nations, which regulate the intercourse of nations.

With these remarks upon that point of the case, I dismiss it. I have some further remarks to make upon this case in Georgia, because it goes further than any case I have found. It goes on to point out the way in which property in slaves was acquired, and to give, in fact, the foundation of the law for holding property in slaves, or holding negroes as slaves:

"The faculty of holding slaves [say the court] 'was derived from the trustees of the colony, 'acting under authority of the British Crown, 'as a *civil* right, in 1751, by an ordinance of that 'board. Before that time, their introduction 'was prohibited."

Remember that this is a decision in the State of Georgia:

"The regulation of slave property is as much 'the province of municipal law, as the regula-'tion of any other property, and its protection 'equally its obligation; but we deny that prop-'erty in slaves, and the title by which they are 'held, are the creations of statutory law. To 'view this question fairly, let the inquiry go 'back to a period subsequent to the ordinance 'of the trustees, in 1751, and anterior to any leg-'islation upon the subject of Slavery. Licensed 'to hold slave property, the Georgia planter held 'the slave as a chattel; and whence did he derive 'his title? Either directly from the slave trader, 'or from those who held under him, and he 'from the slave captor in Africa. The property 'in the slave in the planter, became thus just 'the property of the original captor. In the ab-'sence of any statutory limitation upon that 'property, he holds it as unqualifiedly as the 'first proprietor held it."

Exactly. Nobody doubts that. Nobody in the world, that I know of, can doubt that the slaveholder has just as good a right to the negro slave as the man who stole him and brought him away from his country. Here is the foundation of this business which all Christian nations have carried on. They go back to the slave captor, to the man who stole him in Africa, or to the slave trader, and they say the slaveholder has just as good a right to the slave as the captor or the slave trader. I grant you that, or any other robber or pirate, but not better. I do not mean by this, Mr. President, by any means, that the people who own slaves are pirates or robbers; I am only speaking of the solidity of the title. It rests exactly upon the title of the captor who makes war upon the African and takes him away, or of the slave trader who is declared to be a pirate. That is exactly the title of the slaveholder to the slave; and he has no other. In many cases the negro gets into the hands of people who are not to blame. I will not condemn any man, or any class of men. I am discussing the abstract principle upon which the title to the slave rests. It rests upon the right of the captor—"you are my negro, my slave; take him away; ship him in irons, and carry him away, and sell him." Now, Mr. President, (Mr. FITCH in the chair,) if I were to go into Indiana, and take your horse and bring him here, and I should sell him to the honorable Senator from Ohio, he would have just as good a right to him as I had, and not any better; he is your horse for all that. So it is with the man who deals with the slave, either as captor or trader. He has not any more title than that.

This is the sort of property that they wish to

carry into this new State. I come to another question, Mr. President: who is going to do it? They say the Dred Scott decision has carried it there already. Well, that will not operate after we form it as a State. Here in this Lecompton Constitution is a provision that slaves are to be carried into that State by authority of that Constitution. Who gives that Constitution vitality? The people in the Territory? Not at all. That Constitution is not worth the paper on which it is written, until we breathe the breath of life into it, and make it our child. I, for one, am not going to breathe upon it. It may remain a dead carcass for me, for many generations. It cannot exist unless we put it in force. There is a great deal of talk about this being the Constitution of the people of Kansas. Well, admitting that they formed its shape, sanctioned its provisions, put the words together; still Congress has got to breathe life into it, and Slavery will not exist there under that Constitution, unless you put it there. You cannot escape it. Now, I do not will it.

Thus much, Mr. President, for the law. I now come to more general considerations which are going to govern me in regard to the vote I may give. I said a short time ago—I said it deliberately, I said it upon mature conviction, I said it under the full knowledge of what I did say, as something which I mean to stand by without committing anybody else—that I do object to Kansas coming into the Union as a slave State. I object to Slavery going into that Territory now, henceforth, and forever, unless the sovereign people, after it is made a State, in virtue of their sovereign power, choose to carry it there; and I had almost said that I then would have objection to it, because that State was a part of the territory covered by the old Missouri Compromise. You forced that compromise, Mr. President. The people of the North did not want to take it; they did not want Slavery to go into Missouri; they wanted that to be free territory; but at the time she was about to be admitted as a slave State, you put in a provision that all the rest of that territory should be free. Why have you not kept it? Why has not that compact, if you call it a compact, been kept? Why this agitation, growing out of the question to force Slavery in there? Do you tell me that that compromise was unconstitutional? Suppose it was: I ask whether, when you made that provision, and agreed fairly to it at that time, it now becomes you, if you can do it by the form of law, to wrest that territory from freemen? That is the point I make. I want to know why there has not been honor enough in the people of the other side to maintain that pledge, even if they were not obliged to do so, when they forced that division of the Territory, and said Slavery should not go to Kansas? I want to know why the other side are not willing now that it should be a free State?

Mr. President, it cannot be denied—I will not undertake to deny it—that on this side it is a contest for Freedom, and on that side it is a contest for Slavery. That is the great contest between us. I like to meet this matter plainly. I have no concealments; nothing to deny. It is the great cause of free labor against slave labor; and it is the cause of free labor in that Territory or State against slave labor. I do not come here without a reason. I think I have a reason, coming here as a Senator, exercising a sound discretion, looking for the welfare of the old States, why Slavery should not go into Kansas; because, if slaves go there, they get an undue representation. By the Constitution, in a slave State you add a certain portion of the slaves to make up your representation. Five slaves are equal to three white men for that purpose. If Slavery goes into Kansas, you will reckon the slaves in the representation; and if you get enough there to elect a Representative, do you not get one vote in the other House, over and above the other free States, which rightfully you should not have? Hence I object to extending that right of representation. I know that provision was put in the Constitution by way of compromise. I agree with what the gentleman from Virginia said on that point. Here were thirteen old States. They came together for the purpose of Union. Some of them had Slavery, and some had not; and they agreed, under that Constitution, that the slave States should have representation so and so; but I do not understand that binds us to make all the States slave States, or to let Slavery go into the free States, or to let States come into this Union with Slavery, and thus give them an undue representation over the free States. I object to it on that account.

Mr. President, I object to it for another reason. I am glad now to see the honorable Senator from South Carolina [Mr. HAMMOND] in his seat, because I shall have occasion, in this part of my argument, to take notice of some suggestions which he threw out upon this subject. I object to slave labor, because you seek thereby to degrade and vilify free labor. Your slave labor, in your own eyes, is disgraceful. You seek to bring it in contact with free labor, and thereby degrade free labor. I object to that. I come from a section of the country where labor is respectable. I come from a section of the country where labor is honorable. I come from a section of the country where labor is dignified; where we seek to make it honorable; where we seek to make it respectable; where we seek to make it dignified; and when the honorable Senator from South Carolina, as he did the other day, gets up in his place, and says your white laborers are essentially slaves, or, as he afterwards modified it, "your hireling laborers and your operatives are essentially slaves," I desire, in the Senate house of the United States, to protest against it. Nine-tenths of all my people are working men; they are the men who cultivate their farms; they are the men who work in mechanic shops; they are the men who are at the various trades; they are the men and the women in the mills who are called operatives; and when the honorable Senator says they are essentially slaves, with all due respect, but with firmness in the truth of what I say, I tell him he states what is not true; not in any offensive sense, but because he does

not understand my people so well as I do. I dare say he honestly thinks what he says. I accord to him that merit; but what I wish to impress upon his mind is, that he is entirely mistaken in regard to our laborers. They are in no sense slaves. I grant you, some of them are poor; but does poverty make a man a slave? Then some of the noblest men the nation ever had have been slaves. Why, sir, in my country, a large portion of the husbandmen cultivate their own acres; they raise their corn; they raise their potatoes; they raise their wheat, their rye, their oats, and grass; they take them to market and sell them; they are the product of their labor. It is in some sort hireling labor; but I would like to ask the honorable Senator from South Carolina if he intends to call the agricultural people of my State slaves?

I know, Mr. President, that the people are poor. There is the State of New Hampshire, God bless her! She has not a bed of iron ore in her whole territory; she has not a bed of coal; she has not a mine of copper; she has not a mine of zinc; she has a poor agricultural soil; she has water power; she has free hands and free hearts; and there is not a people in the Union more attached to the Union, and who live more comfortably and more happily, than that same people in New Hampshire; and I do not wish to hear them called slaves. They are in no sense slaves. Why, you can sell your slave. Go and attempt to sell one of those freemen, and what would be the result? You can compel your slave to labor. Go and try to compel one of my countrymen to labor. You can take from your slave his liberty. Go and take from my countrymen their liberty, if you please—try it. You can feed your slave as you choose. Go and administer food to the laborer of the North. You can clothe your slave as you choose; but the laborer of the North will say, I can clothe myself; I can feed myself; I am master of myself. You say he is a slave because he is poor, because he is obliged to labor. Is that it? Yes, sir; but he can labor where he pleases, where he can find work, and when he pleases; and he can buy what food he pleases, what clothing he pleases; and is, in every sense, a freeman.

I am satisfied, Mr. President, that the honorable Senator has mistaken the condition of that people. I do not know but that he has been there: but I feel very sure that he has not. I am very certain he would not have said what he did, if he had been there; and I am very certain, if he were to go there now, he would find a great many things very different from what he anticipates. Why, sir, he says: "Your operatives are essentially slaves." I come directly from a city where there are ten thousand of those operatives about me. I know their condition; I know their habits; I know their mode of living; I know their mode of thought. I know that some of these operatives lease their farms, and leave them behind them; they come from neighboring towns, and go into the mills. They work as operatives because they can make more money at it. They hire their labor; but are they slaves? Why, they can buy as good a dinner as the gentleman from South Carolina, and as good a hat or as good a coat, and supply their wants as well. In what sense are they slaves? Perhaps the gentleman can tell me.

Mr. HAMMOND. I have already said that, on some future occasion, I will answer the remarks of those gentlemen who have taken exceptions to what I said a few days ago. I do not choose to do so now. I only wish to say, that the Senator from New Hampshire himself knows that he is depicting a state of things that does not exist. They do not get work when they want it, and a large portion of them cannot get a dinner when they want it.

Mr. CLARK. I will not tell the gentleman that what he says is entirely wrong; but I will tell him that, if he will go into my country, he will find that ninety-nine out of every hundred of them can not only get a dinner when they wish it, but would give him a dinner when he wants one, and would be glad to do it. The gentleman asked how we would like to have missionaries sent into every quarter of our country. I would say to the honorable gentleman that I would have no objection to them. I would like to have him go there, and see for himself, and he would find that what I state is true; I know it to be true; but if he does go there, he had better be careful of one thing; and that is, not to talk about "the mud-sills of society" to them; because, if he does, I am sure that about five feet ten inches—if that is the Senator's height—of mud-sill would be made of Southern timber.

Now, Mr. President, it is this same sort of feeling that is engendered in the slave States against the North and free labor, that makes me so much opposed to the institution of Slavery going into Kansas. Let Slavery go into Kansas, and exist there as it does in South Carolina, and how long would it be before our free people would go there and settle? They have been told that they were white slaves—essentially so; that they are the mud-sills of society, and that cotton is king. Cotton king, sir! Cotton cannot make a hat; and these men, who rise and boast about cotton could not get a hat, if they did not buy it. Cotton does not make shoes; cotton does not make pantaloons; cotton does not make a coat You can buy those articles; but free labor can make a hat, shoes, pantaloons, or a coat. Your cotton king! So said the gentleman from South Carolina; so said the Senator from Maryland, [Mr. KENNEDY.] Cotton is king! It rules the world! Sir, there is another king there besides cotton; humbug is king!

Mr. President, I have sometimes been in the opposite end of the Capitol, and gone into that new Hall of Representatives, which is entirely cut off from the air by all the rooms around it. Not a breath can come from the windows, because there are none opening into the Hall. I have then gone down below, and seen a steam engine and blower, with which they were pumping it up, and we hear the air passing up; and I have sometimes wondered, if steam engines were invented when God made the world, whether He would not have ventilated it with a steam engine; whether he would not have

put the world in an iron shell, with a hard case, and fixed outside a big steam engine to pump air into it. When I heard the gentleman the other day say that cotton was king, and that England would topple down if you did not raise cotton, I could not help thinking, if cotton had been grown at the time the Lord created the world, whether He would not have made the world of cotton. I wish to ask the honorable gentleman how the world got along without it? They got along up to the Christian era without cotton, and for some sixteen hundred years afterwards. How did the world get along without cotton? Does anybody know? Can anybody tell? I have no fault to find with the South, except that I wish they would treat my people with courtesy, and that they would not stand up here in the Senate and call them slaves.

Mr. President, pardon me a moment while I relate an incident; and the gentleman will see why we have some feeling on this subject. In the years 1776 and 1777, there lived in my State a young blacksmith, some sixteen or seventeen years of age. He got his living by pounding it out on the anvil with a strong arm. His country needed his services. New Hampshire wished to supply her quota of troops. He was drafted, and he went. He was at the battle with Burgoyne. When his time was out, he returned to his native State. He went to the anvil again. He hired out his labor; he was one of those whom the gentleman calls slaves, if any of them are. He hired out his labor to his neighbors; he made for them nails; he made for them plowshares; he made for them everything that they wanted. When he got back from the war, the State of New Hampshire owed him some money for his service. His father said to him, "Benny, the State of New Hampshire is poor; the country is poor; do not call upon the State to pay you now; let it be; the country is illy able to pay it; give your service to your country." He did not call for that pay; he never called for it. His children after him never called for that pay. There it stands now, in the capital of New Hampshire, so many pounds, so many shillings, and so many pence, due to that humble blacksmith. His children will not come here or go anywhere else to call for that pay. They would rather have the record there, that their father gave that pittance to the State in poverty and necessity, rather than to have all the goodly stones of your Capitol; and yet it is the fortune of the son of that poor blacksmith to come into the Senate, and hear the Senator from South Carolina call his father a slave! I did not think it would have been done. God knows, when I heard it, tears ran down my cheeks that he should be so vilified and abused, and I sit here to hear it. To Benjamin Clark, upon the record, stands the sum he earned and gave to his country; and now, when his son comes into the Capitol of this same nation, which he fought to make free, a Senator stands up and calls him a slave! I did not think I should have lived to have heard it.

Why, Mr. President, there are in my own State a great many excellent young women who work in the mills there. I suppose the gentleman calls them slaves. Now, let me tell you what I have known to be done, time and again. I have known the father of a family, from ill habits, or some other reasons, become impoverished. I have known the farm to get mortgaged. I have known that father to have daughters, and I have known those daughters to go to the mills. I have known them by thrift, prudence, and saving, accumulate money enough to free that farm from mortgage, give it back to the father and mother, make a happy home again, and then to contribute to educate their brothers or sisters. I have known many of those honorable young women. The gentleman says they are slaves. They earned not only enough to clothe and to feed themselves, but enough to educate themselves, and to fit themselves to adorn some of the highest stations of life.

Mr. President, I have another incident which I should like to relate. You all know the name to which I shall allude, and I wish to know if the honorable gentleman would call him a slave. There was a poor man once lived in my neighborhood. He cultivated a farm on the banks of the Merrimac; he lived by his hands. He lived by his labor in the field; he had no menial servants. When the summer and seed time came, he went into the field and planted; but when the country needed his services, those services were at her call. I speak now of the hero of Bennington, of the late General Stark, who lived close by my home; who was buried by the side of the Merrimac. He was a laborer all his days. He was a man who fought for his country's liberty with Rogers's Rangers, and at Bunker Hill, and at Bennington, and yet he is to be called a slave. I have a higher example still, of a little printer's boy, who was born in Boston. He left his father, and went to Philadelphia. He hired out his services. Was he a slave? Why, sir, he began by running away from Boston, and he ended by making the lightning come from the clouds at his bidding; and he was a slave!

Now, sir, I only ask the honorable Senator from South Carolina, before he uses these terms again towards the people whom I represent, to go and see them. I will be bound that they will treat him kindly; I will be bound, if he will come and give them the opportunity of showing him how they live, what is their condition, and how happy they are in their homes, that they will forgive him what they might almost consider an insult, and set it down to the fact that he did not know them better.

But the gentleman says they vote; they hold your power. They do vote; and they do hold the power. They put their men into office when they are fitted for it; and I will tell the honorable gentleman that there is no class of people that can hold power more safely, no class of people who will exercise the power more securely; and if your institutions are never overturned until these laboring men overturn them, they will exist for a great length of time.

Why, Mr. President, history is full of reminiscences on this subject of laboring men. I have said I come from a poor State. I mean a State poor in resources. She has, thank God, given

the world some men. She has free hearts, free heads, and free hands, in abundance. She is poor in some respects. Poor as she was, when you wanted a ninth State to adopt the Constitution, that poor State of New Hampshire was that ninth. These laboring men, who it is said are essentially slaves, were the same then as now. Those laboring men are the men who enabled you to adopt the Constitution; and now you turn round, and vilify them as slaves! Mr. President, it ought not to be so. I wish it were not so: but such is the issue upon us, and I am disposed to meet it calmly, to meet it quietly, and to meet it determinedly.

Mr. GREEN. Will the Senator allow me to interrupt him?

Mr. CLARK. Certainly.

Mr. GREEN. I merely wish to call his attention to the fact—it is a mere question of fact—that in 1790, in the State of New Hampshire, there were one hundred and fifty-eight slaves returned by the census.

Mr. CLARK. I see it so set down, and I do not know but that it may be correct. But, sir, if they were there, I can only rejoice that they are not there now. I hope the time will come when every State that has them will find some way to be relieved of them. I do not know but that I might appeal to the Senator from Missouri to answer me, if he does not think that Missouri would be better without slaves, if she could get rid of them. I will not ask the question. It may be unpleasant.

Mr. GREEN. Not in the least. Ask me.

Mr. CLARK. No, no. I will now take my tea, as it has just come in. I am sorry to have to be obliged to do it, but I cannot help it.

[The honorable Senator had been furnished with tea and sandwiches, of which he proceeded to make a fitting disposition.]

Mr. GREEN. While the Senator is at tea, I will answer that question, if he desires it.

Mr. CLARK. I will yield the floor, while I take my tea, to the Senator.

Mr. GREEN. I wish to make a remark in regard to the question which the Senator proposed to me.

Mr. CLARK. Very well. Get up a little social chat, while at tea. [Laughter.]

[Here occurred various motions to adjourn, postpone, &c., and a speech from Mr. Toombs, of Georgia, proposing "to crush out this miserable faction"—the minority.]

Mr. CLARK. When this interregnum occurred, I was about to make some remarks upon a matter which is not, I think, usually touched upon in the Senate of the United States. I would not do it, were it not for some remarks which fell from the Senator from Virginia [Mr. HUNTER] on Friday last, and also some remarks which fell from the Senator from Maryland, [Mr. KENNEDY.] I stand here to rebuke no one, to censure no one, to find fault with no one, but it did seem to me that some remarks that were made a few days since by those gentlemen were extraordinary. They were such remarks as, with all due deference and kindness to these Senators, I was sorry to hear. I do not know but that I might say, in charity, that I do not think the Senator from Virginia and the Senator from Maryland would have made them, if they had bestowed upon them a little more consideration. I certainly was pained to hear them. I stand here to avow it; however unusual it may be in the Senate of the United States, I stand here proud to say—no, sir, not proud, I do not feel proud—I stand here acknowledging the "higher law" as the true rule for the guide of men in their human affairs. I did not like to sit here in my seat, and hear the Senator from Virginia, and the Senator from Maryland, say they were opposed to the principles of the higher law. Now, let them tell me what they mean by the higher law? If they mean the law of the God who governs us, then I am sorry to hear, in the United States Senate, any man say he is opposed to the principles of that law. I do not mean to say, as was said by the Senator from Virginia, that we are here to administer the higher law. That is not what I mean; but I do not like to hear the higher law—I will speak of the law of eternal justice and right in that term—spoken of in that way. I stand here as a Senator, I hope we all do, to acknowledge that law. Sir, it would be a bitter mockery to put a clergyman in your seat to pray in the morning, and then stand up before night and deride the Giver of the law by which we all ought to be regulated. It is the law of eternal right I tell you, sir, in your place, I tell honorable Senators in their places, whatever they may think of it, whatever may be said in regard to it, that when the Senate and the Government of the United States forsake the principle of that law—when they disregard it, and cast it away—we are on the road to ruin. Our fathers did not so. They acknowledged the hand that ruled them, and why should not we?

Now, sir, I acknowledge those principles. I do not ask you, I do not ask the Senate of the United States, I do not ask the House of Representatives, I do not ask the Government of the United States, I ask nobody to administer that law. The Author of that law will administer it, whether we are opposed to it or not; but I do ask Senators, if they do not choose to recognise it, not to stand here in the Senate and scoff at it, if I may use the expression. I do not censure anybody, Mr. President; but I do believe that the safety of the nation, the safety and salvation of man here, as well as hereafter, depend upon recognising those great rules of right which that law prescribes. That is all I do mean. I do not ask you, I do not ask anybody, do go into their own hearts, and take their own conscientious notions, and administer them as the law. I have no such idea. But I ask here, in the Senate of the United States, that we should not ignore those great principles of right which mark and characterize that law. Mr. President, we have all got to be governed by it, and all our actions have got to be conformed to it, or punished by it, whatever we may say, and whatever we may do, and however much we may oppose it. Why should men recognise it in almost every department of business, and here, in the Government of the United

States, where we need as much wisdom as anywhere else, entirely ignore it? I read no lesson to any Senator; I read no lesson to the Government; but I do ask that, if we do not choose to follow it, that such allusions should not be made to it.

Mr. President, I may say to Senators, if I had been permitted to have gone along in my argument, I should long since have concluded what I had to say; but I find no fault with any Senator on either side of the Chamber. The sort of by-play that has been carried on, if I may be allowed the expression, has given me a little opportunity to rest, though I am somewhat in the situation of the boy who undertook to hoe a garden, and when he stopped work to go to dinner, he left his hoe standing against the wall, and somebody stole it; and when he got back, he did not know where to begin. I had gone along through a part of my speech, and did not even set up my hoe, and I shall have to begin as best I may, and as near as I may to where I left off.

I want to say one thing to the honorable Senator from Georgia, [Mr. TOOMBS,] if he is in the Chamber, in regard to the expression that he uttered here in reference to "crushing out" this side of the House. They tell a story in my country about a gentleman, of whom we have all read, that had a cloven foot; that he once undertook to straighen a nigger's hair, and somebody inquired of him how he got along. He said, it was very busy work, though it was not very hard. I think the honorable Senator from Georgia will find his work both busy and hard. It cannot be done. Twenty honorable Senators, or more, as we have, belonging to the Republican party, cannot be crushed out by any legislative force that can be brought against them.

I do not know but that honorable Senators may be emboldened by the course which is taken by other honorable Senators, and that he supposes, because certain Senators yield to anything they propose, that certain other Senators are going to yield to what they propose. I wish to tell that honorable Senator that different men are now coming from the North. We have had enough of those people who bow down and yield. We have got, if I mistake not, a President who bows down and yields to exactly what is said. I say to exactly what is said; perhaps I should not put it precisely in that form; but he bows to do what is required of him. We have got certain Senators who bow down to what is required of them; but I wish the honorable Senator from Georgia to understand that there are certain Senators in this Chamber that are sent to the Senate, not to bow down, but to stand up. We have had enough of bowing down, and the people in my region have got sick of it. They will stand up, and they cannot be crushed out. The gentleman may put his heel upon their heads, or upon their toes, or anywhere else he pleases, but still there will be Senators in this Chamber demanding their rights and maintaining their rights; and you may crush and crush, and the more you crush, the more those men will resist and stand firm.

That is what I have to say upon that point; and if the process had gone on, and God had spared my life, I would have made this speech in the Senate, if it took to the day of doom; but now, since there is a manifestation on the part of honorable Senators, that when I have concluded this speech the Senate will adjourn, I have no disposition to prolong it. I will meet them half way; but when they show me their foot or their heel, I will show them my foot or my heel, and I will stand in my place, and they connot drive me from it, nor kick me out of it. Gentlemen may just as well understand that in the beginning as not. It is about time that this talk of crushing out should be stopped. It does not become, in my judgment, honorable Senators either to utter or to hear it. One thing I am sure of—it is to be a very difficult process. The man who attempts it will find that he has as much as he can do for one generation.

I had laid down various propositions in my own mind, why I would not vote for the admission of Kansas under this Lecompton Constitution. One of those reasons was, that it will not give peace and quiet, and may engender civil commotion and war, destroy the confidence of many of our citizens in the Government of the United States, and lead to mischief. I desire to discuss that proposition for a short time, because I may not get another opportunity to do so. Senators on the other side seem to think that Senators on this side wish to prolong the debate. I do not desire to do so. I only desire to say, fairly, candidly, and clearly what, in my judgment, is proper to the debate, and when I have said that, I shall sit down; but I shall not sit down until I have said it.

You may adopt this Lecompton Constitution, and the President says it will give you peace and quiet. In my judgment, it will give no peace and quiet. Bring peace to whom? Peace to the country? How so? What has been the state of the country ever since you repealed the Missouri Compromise? And, if you would go back further, I ask, what has been the state of the country since you adopted the compromises in 1850? Then everything was to be settled. We have heard very many times of this peace and quiet. Adopt this measure, and there will be peace and quiet. The dove has come with the olive branch in its mouth, and we have taken the dove into the ark, and yet no peace and quiet have come.

You tell us that peace and quiet will come now. I tell you, in my judgment, this measure will bring you no peace nor quiet. The sentiment of the country is aroused in a way that no admission of Kansas with this Constitution will quiet it. Why has it been aroused? Because the country feared that, when you repealed the Missouri Compromise, you were going to make Kansas a slave State. That was the watchword. The object was to make Kansas a slave State. The country became alarmed. They said that was the object. A great many Senators in this Chamber said "no." An honorable Senator from North Carolina, Mr. Badger, said:

"I have no more idea that Slavery will go

'into the Territory of Kansas, than that it will 'go into Massachusetts."

Senators talked about the law of climate; that the law which regulated slave labor, effectually prevented its going there. They said slave labor would not, could not, flourish in Kansas.

That was the argument. Everywhere I went, "on the stump," and elsewhere, I endeavored to controvert it; because I saw, as I thought, that Slavery was to go into Kansas. When they said that Kansas was too far north, Slavery cannot go there, I replied to them, is Kansas any further north than Missouri? and if Slavery is profitable in Missouri, it will be in Kansas. That was one reason why I wished to draw out the Senator from Missouri to-night. I asked him if he was in favor of abolishing it in Missouri, and he at once said no; that slave labor was profitable there. He told you that in raising hemp and tobacco it was nearly equal to the cotton crop in value, and he did not want to get rid of Slavery in Missouri. If Slavery is profitable in Missouri, why not in Kansas? Is it not entirely idle, then, to talk about the law of climate, or anything of that kind, excluding Slavery from Kansas? There is no doubt a large majority of the people of the North—perhaps all of them—who do not desire Slavery to go into Kansas. I do not know but what I may say that some men from the slave States desire it not to go there, because slave labor "crushes out" too much land, and countries settled by free labor are the most prosperous countries.

Mr. President, I could join in all that was said of the beautiful country of the South by the gentleman from South Carolina; I could join with him in speaking of the beautiful sea-coast, the winding bays, and harbors; I could join with him in praise of that magnificent river which sweeps the valley of that country; I could join with him in the fineness and richness of the soil, in the bright sunlight, and everything that makes that country beautiful; but when I join with him in that, the reflection would come to my own mind, if you only cultivated that country, as you might a large portion of it, by free labor—I have no doubt you might do so—how much more beautiful would it be than it is now! I agree to the picture which he drew, and then, without taking the brush off, I could add some very beautiful tints to it. I apply the same thing to Kansas. When you talk to me about Slavery making the South prosperous, or making Kansas prosperous, I tell you with free labor it will be infinitely more beautiful and prosperous.

There is another point to which I want to direct the attention of Senators. Gentlemen of the South complain, that if Slavery is excluded from Kansas, they cannot go and carry their slaves there. Very true. Let me state the other side. If they go and carry their slaves there, free labor cannot go there to any great extent. You have got to exclude one or the other. Which shall be excluded, the one which renders the country more or least prosperous?

But I pass from that consideration, and come back to the proposition that the admission of Kansas under this Constitution will bring you no peace. I ask you to turn your attention to my own State, and see what has been the history of the question there, and then judge of other States like my State, whether you are going to have peace. The State of New Hampshire had been (and ceased to be we know not when) a Democratic State from 1829 to 1846. She had not faltered once. She was as true as the needle to the pole, or the shining of the north star. She was always Democratic. When the great State of New York and other States faltered in 1840, or were swept away by a political whirlwind, New Hampshire was true to the Democracy. She acquired the titles of the "Gibraltar of Democracy," the "back-bone of Democracy," the "unterrified Democracy," because she was always true. Yet in 1846, when, upon the question of the admission of Texas, they proposed to defeat my colleague here, who had been a member of the other House, for his vote there, New Hampshire, which for seventeen years never had varied in the least, "went square about," defeated the Democracy, elected my colleague to the Senate of the United States, and brought him first into this Chamber. That was done upon the Slavery question.

The next year, the Democratic party passed certain Anti-Slavery resolutions, showed themselves opposed to Slavery, and the State "went square back." On those resolutions she stood in 1847, 1848, 1849, and 1850. She reiterated them in 1851 and 1852, and there she stood in 1853. But the very next time you brought up this Slavery question, and proposed to repeal the Missouri Compromise, in 1854, she "went square about again." They had not a majority of the Legislature in 1854, which would elect Republican Senators; but they defeated the Democratic Senators. The next year, with a majority of one hundred, she re-elected my colleague and my predecessor, the late Mr. Bell, as Senators here. The next year she stood the same; the next year the same. She has just spoken again; and I wish you to hear what is said now in that State.

Mr. President, when you proposed to admit Kansas under the Lecompton Constitution, the Democracy of the State of New Hampshire became a little frightened. They began to take sides with the honorable Senator from Illinois—if you will allow me so to speak—against Lecompton, and to take sides with the President. They passed a resolution approving the course of the Senator from Illinois, or against the Lecompton Constitution; and they passed a resolution approving of the President. They prayed "good Lord and good devil." They came to a vote. The Lord would not, or did not, help them: and the devil could not, for the Republicans were too many for him. It turned out that the Republicans carried the State by an increased majority of two thousand votes. We carried it by three thousand before, and three thousand majority in our State is a pretty large majority; but at the present election, which took place last week, on last Tuesday, we increased the majority to five thousand.

Mr. SEWARD. What was the aggregate vote.

Mr. CLARK. The aggregate vote was about

sixty-eight thousand. We are a very steady and conservative people. New Hampshire was a Democratic State from 1829 to 1846. She then went round and voted for my colleague. She resumed her place in 1847, and went on until 1854. She changes only once in a generation; she is so conservative, that when she fixes her point, there she remains. She has fixed herself as a Republican State, and there she will remain. At this election, she has increased the majority two thousand votes.

Mr. SEWARD. She will come up.

Mr. CLARK. Yes, sir; she will come clear up, if you keep on this warfare, and take in the whole people. But I wish to read to you, sir, and to honorable gentlemen who cry "peace peace; only admit Kansas with the Lecompton Constitution, and you will have peace," an article from the New Hampshire *Patriot*. That is, and has been, the State paper. Everybody who knows anything about New Hampshire and Isaac Hill, knows what sort of a paper it has been. It was his paper, and had been from time immemorial his paper. I desire to read a few lines, written the day after, or the day but one after, the recent defeat. Here is what it says:

"This defeat of the Democracy is sufficiently 'overwhelming to satisfy our most bitter oppo-'nents; even the latest renegade must feel con-'tent with it. At the same time, when the pal-'pable cause of it is considered, it presents no 'occasion for despondency on the part of true 'and intelligent Democrats. No one can fail to 'see the cause; all admit it. The Kansas ques-'tion has again crushed us"——

That is the "crushing out," sir. "The Kansas question has again crushed us"—us, the Democracy. That is a different crushing from what the Senator from Georgia was going to give us.

Mr. SEWARD. It is a bad rule that will not work both ways.

Mr. CLARK. We know it works both ways. If we put our trust in Providence, and general principles are with us, we need not fear this crushing-out process. This article continues:

—"with its ponderous, blind, unreasoning pow-'er. Before the Lecompton Constitution ques-'tion was brought before the country, our pros-'pects for success were highly flattering; our 'triumph seemed to be certain."

Now, mark this:

"That matter, with the course of the Admin-'istration upon it"—that is it—"fell like a wet 'blanket upon the rising courage and earnest 'zeal of our friends, and from that day we were 'doomed; our defeat was certain, and apparent 'to all well-informed persons."

Let me tell you, Mr. President—and let me tell honorable Senators who think that peace is coming from this measure—that when you have crushed out the majority in Kansas, you have not crushed out the Republicans of New Hampshire, nor the Republicans of the country. What will be the effect of passing this bill? You admit Kansas with this Lecompton Constitution. She then comes into the Union under it, just as if you had not amended it, or put some condition to it; and what do you get then? Where is Mr. John Calhoun? Here, in this good city. Why did he not count the votes before this? Why he told you he was not going to count them or declare them until Congress admitted the State when you got that difficulty settled, he would count the vote. Oh, yes; "you admit Kansas 'under the Lecompton Constitution; let it come 'in with Slavery in it; then I will count you in 'a Pro-Slavery Governor—a Pro-Slavery Legis-'ture, with all the machinery to move it; and 'then let me see you get a free State." The what sort of a difficulty would you have? Have you any idea that the people are going to submit to it? I put it to you—if they have been rebellious, insurrectionary, and insubordinate while this question has been pending, and under the rule of these Missourians, what do you think they will be when you force upon them a Constitution which is obnoxious to them, and against their will?

You send your Governor back, if he dares go. Let him attempt to put that slave-State Government into operation. They will drive him out of the Territory. Let the Legislature attempt to go into session. It may be—I do not say, because I do not know, I am only forshadowing events in giving my own views—that they will assemble, or attempt to assemble. The people drive them out of the Territory. What then? An application by the Legislature and Governor for troops to take care of them. What then? A collision between the troops and the people. What then? Why, peace in the country! Only admit Kansas, and we will all go to bed, and lie down and be peaceable and quiet; and we will not hear anything of this subject again!

I tell you, sir, that when you put this Lecompton Constitution into effect, in my judgment you give the people of Kansas the torch of civil war and tell them to go and light it. I am not certain but what the President desires this. There is evidence here to show that the President of the United States does not wish peace. That is a pretty grave charge to make; but I think I can prove it, and I prove it in this way: Mr. Stanton wrote to the President, (and the President sent the document here, or rather repeated in his message what Mr. Stanton had said,) that the only way he could prevent bloodshed in the Territory, as he thought, was to call the Legislature together. He did call the Legislature together. What then? Why, the President turned him out of office for doing the very thing that would prevent bloodshed. Now, Senators know that the reason the President assigned for turning him out of office, was because he called the Legislature together; and then, afterwards, the same President sends here his message, and that message says that Mr. Stanton said, the only thing to prevent bloodshed was to call the Legislature together; and so it happened.

Mr. President, I could continue for some time longer to show you why you will get no peace in this Territory by passing this measure, but I forbear. I have already occupied more of the time of the Senate than I ought to have done, much more time than I should have done und

other circumstances; but, with these hasty remarks, I close with a warning to the Senate, if it becomes me to give the warning, that as you failed in 1850 to get peace on this question, when you thought you would have it by the compromise measures; as you failed to get it in 1854, when you thought you would have it by the repeal of the Missouri Compromise; so now, in my judgment, you will fail, signally fail; and I will tell you that the admission of Kansas under this Lecompton Constitution, instead of giving peace and quiet to the country, will add but another torch and another brand, which will be fanned into a flame.

Now, Mr. President, I had it in my mind to say something further in regard to the speech of the Senator from Virginia, [Mr. HUNTER,] which was delivered on Friday. If you will bear with me a moment, I will do so. I dissent entirely from the conclusion of that speech. Though it distinctly shadowed forth what certain gentlemen deemed to be the career of this country, I was compelled to dissent. We were told by the gentleman from Virginia that the eagles were already gathering to the banquet of empire, but that there was one eagle away, watching her nest. He spoke as if it was desirable that young eagle should be to that banquet. I say, sir, let the young eagle watch her nest; let her take care of her young; let her not go to feed upon the carrion of the Old World.

I say more. Let her maintain her dominions here where she is, upon her own soil. If, in a proper and rightful way, she acquires more soil to be used in a proper way, so be it; but I protest against that vision of empire which he shadowed forth when we should have possession of all the southern portion of this continent, marching through Mexico and the States of Central America to the Amazon and the equator, and governing the country by subjecting those nations to the stronger. We might possibly do it; but is it desirable? If we can subject the negro, and hold him in slavery, in the same way we can subjugate the Mexicans and the various peoples in the Central American States. Sir, I protest for my country against any such destiny. I have no objection that she shall be enlarged in her borders, if it can be done justly; but if her borders are to be enlarged in wickedness, in unrighteousness, by force, and by subjecting other nations to her will, to make them slaves, then I protest against it. I ask no such future for my country, because I remember, and it will ever prove true, that "the nation that sinneth shall die."

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